

BEFORE THE CITY OF WHEELING, WEST VIRGINIA  
PLANNING COMMISSION

In re:

GC&P Development, LLC - Bethany Pike, WV 88

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TRANSCRIPT OF PROCEEDINGS

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Monday, June 8, 2020  
5:07 p.m. - 8:44 p.m.

All Attendees Appearing Via Zoom Teleconferencing

Planning Commission Members in Attendance

James "Jeff" Mauck, Jr., Chairperson  
Martha Wright, Vice Chairperson  
Christina Schessler  
Wendy Scatterday  
William Schwarz  
Russell Jebbia  
Howard Monroe  
Thomas Conner  
Jeremy West

Also in Attendance

Rosemary Humway-Warmuth, Esquire, City Solicitor  
Scott Mandrola, WVDEP Deputy Secretary  
Douglas Grayson, GC&P Development Group  
Michael Hooper, Esquire  
Melissa Southern, EIT  
Thomas Connelly, AICP  
Benjamin Dusina, PE  
David Hooper, PE  
Zachary Assaro  
Michael Nestor

P R O C E E D I N G S

1  
2 CHAIRPERSON MAUCK: Moving on, tonight we have  
3 some unfinished business from GC&P Development for a  
4 Special Area Plan, Comprehensive Plan amendment.

5 Mike, I have an order that I'm going to follow.

6 The first item on my order is -- you submitted  
7 four new maps, Maps 96 through 99, that were submitted by  
8 e-mail June 4th. Can you or Ascent Engineering, either  
9 one of you -- it doesn't matter -- discuss how they differ  
10 from what's already been submitted, and tell us what they  
11 are.

12 MR. MICHAEL HOOPER: Well, sure. Sure. Again,  
13 I will ask the gentleman from Ascent to speak specifically  
14 on that. What we are prepared to do is to go through --  
15 we have the majority of our experts here especially  
16 applicable to the issues that you-all have raised. At the  
17 last meeting we spoke about them giving a brief statement,  
18 and then they would answer any specific questions as to  
19 their area of expertise.

20 If you would like to start with Ascent, that  
21 would be great, but I have a grouping here.

22 I have David Hooper, no relation but a pleasant  
23 surprise, of the Larson Design Group, and he'll be here to  
24 discuss geotech issues and mining issues.

1           Then I have both Zach Assaro and Mike Nestor  
2 from Ascent to explain those maps and to also discuss  
3 anything with regard to the stormwater issues and, in  
4 particular, permitting which I think is an issue that  
5 you-all need to understand.

6           Then I have Joe Guley and Melissa Southern from  
7 Stahl Sheaffer Engineering who will discuss and hopefully  
8 bring a little more clarity, other than 800 pages, to the  
9 traffic study.

10           Then I also have Mr. Grayson -- Doug Grayson  
11 here, one of the two members of GC&P. As I said, he's a  
12 former member of Pennsylvania Real Estate Investment  
13 Trust, and he has oodles of experience in this sort of  
14 development.

15           I was going to have Mike Klug here because we  
16 never did discuss the financial impact, Exhibit 12, that I  
17 had brought before you several weeks ago. Unfortunately,  
18 he had a personal issue come up late this afternoon, so he  
19 won't be able to attend.

20           But let me just point out real briefly as to  
21 his statement, that GC&P will bring 12 million dollars of  
22 severance, 4.5 million in revenue to the State for  
23 construction, an additional almost 4.1 million dollars of  
24 income to the State annually with this project.

1           For the City alone, the GC&P project is going  
2 to create at least 4.54 million dollars during the  
3 construction phase, and an additional 2.281 million  
4 annually just in tax revenue.

5           As part of that -- and it's all spelled out in  
6 Mr. Klug's report, the former City of Wheeling finance  
7 director -- that there will be 5- to 600 construction jobs  
8 and then approximately 1,000 to 1,100 in permanent jobs.

9           So with that said, if you would like me to do  
10 so, I will have the gentleman from Ascent come up and  
11 answer your questions. Does that make sense?

12           CHAIRPERSON MAUCK: Yes.

13           MR. MICHAEL HOOPER: Gentlemen, whoever wants  
14 to play, sit here.

15           We were going to try to go with a two-camera  
16 attack, but to the extent that he wants to reference  
17 exhibits, I think we might have to go a one-camera attack.  
18 So we're making the best of what we got here, guys.

19           CHAIRPERSON MAUCK: Okay.

20           MR. NESTOR: So if you see my arms moving, you  
21 know why.

22           CHAIRPERSON MAUCK: Wait a minute. First of  
23 all, we can't hear you.

24           Second, would you state your name and address

1 and affiliation for the record.

2 MR. NESTOR: Sure. My name is Mike Nestor.  
3 I'm a managing member of Ascent Consulting & Engineering.  
4 The address is 2361 Davisson Run Road, Clarksburg, West  
5 Virginia.

6 CHAIRPERSON MAUCK: Thank you.

7 MR. NESTOR: You're welcome.

8 Tell us what those maps represent.

9 MR. NESTOR: Yeah. In reference to your first  
10 question, the maps that we put together and shared with  
11 the City are really just a fine-tuning of the maps that  
12 you've already seen. There's not a significant change in  
13 those. One reason for that is that Ascent will now be  
14 handling the site civil portion of this project moving  
15 forward, the permitting and items such as that. So we  
16 wanted to make sure that we had a chance to fine-tune the  
17 concepts that had been done, put them on our format and  
18 border.

19 Then the other thing that you do see here is an  
20 overlay. One of the maps had an overlay of the --

21 Map 96 is what you got up, Mike?

22 MR. MICHAEL HOOPER: Correct.

23 MR. NESTOR: Map 96 has an overlay of the  
24 existing mine maps that are available for the Pittsburgh

1 seam. You can see those in red at the bottom and  
2 right-hand side of the site map, if you can follow those.  
3 That's the available mine mapping. It shows how it  
4 interfaces with the proposed development.

5 CHAIRPERSON MAUCK: That's one map.

6 MR. NESTOR: Correct.

7 CHAIRPERSON MAUCK: There were four.

8 Can you hear us?

9 MR. NESTOR: which map would you like to take a  
10 look at next?

11 CHAIRPERSON MAUCK: Just run through each map  
12 and tell us what they represent.

13 MR. NESTOR: So, again, 96 is the development  
14 pad with the mine overlay. It does not show the proposed  
15 site development layout. So it doesn't have buildings.

16 Map 97 is essentially the same map, but it  
17 shows how it coordinates with the proposed final  
18 development. So you can see the proposed buildings  
19 located on the site pad and with the same information in  
20 the background.

21 CHAIRPERSON MAUCK: How about 98 and 99?

22 MR. NESTOR: We'll move on to 98. 98 is just a  
23 cleaner look that shows the existing topography on the  
24 site. It just takes the overlay of the mine maps off.

1 The mine maps, you can see exactly what's going on with  
2 the subsurface. This is really to just look at what's  
3 proposed on a concept level for the grading operations.  
4 It does show the multiple points of access into the pad,  
5 the main entrance, of course, off of 88, as well as the  
6 secondary entrance off of Warden Run.

7 Then moving on to Map 99, it's, again, the same  
8 thing, except for we're showing the buildings.

9 CHAIRPERSON MAUCK: Commissioners, do you have  
10 questions? If you can raise your hand.

11 MR. CONNELLY: I think, Mr. Hooper, you might  
12 need to stop the screen share so Mr. Mauck can see.

13 CHAIRPERSON MAUCK: Rusty, do you have a  
14 question?

15 COMMISSIONER JEBBIA: I do.

16 You sent us grading plans with contour lines,  
17 but there's no -- I spent most of -- a good part of Friday  
18 afternoon actually labeling the contours so we could see  
19 just what is going on there, because the contours actually  
20 really don't have a lot of purpose if you don't know what  
21 the elevations are as to how steep and whatever. There  
22 were absolutely no numbers on any of the contours.

23 But then once I got it figured out and then you  
24 changed from a 10-foot contour to a 25-foot contour, which

1 throws it off a little bit, there's some really steep  
2 areas there for your highwalls. You got a 200-foot high  
3 highwall going up on that south boulevard.

4 Then even coming in off the main drive, as you  
5 come in off the main entrance, I think that one is like a  
6 175-foot highwall straight in. Do you think that's going  
7 to be a problem?

8 MR. NESTOR: Again, this is a really -- I agree  
9 in terms of labeling the contours. Just what the intent  
10 was for this display is to get an overall view of what it  
11 looks like. There isn't a great change in terms of this  
12 grading plan in relation to the ones that you've seen in  
13 the past.

14 COMMISSIONER JEBBIA: Okay.

15 MR. NESTOR: Now, moving forward, this is a  
16 conceptual plan. Further investigation would be done in  
17 terms of whether those highwalls are sufficient to the  
18 200-foot slope or not, or if half the one works or if  
19 you've got to back that up to a three-quarter-to-one  
20 slope. Those things are done in the final stages of  
21 design. That's not the intent of where we're at today,  
22 but we will have to go there eventually.

23 COMMISSIONER JEBBIA: I just want to make a  
24 point that some of the concerns -- I know it's



1 conceptual for now, but a lot of those were very close  
2 to some of the adjoining property owners, and that sort of  
3 concerned me because their properties are almost coming up  
4 to the top of that highwall.

5 MR. NESTOR: Yeah. The cut highwall is  
6 actually along Route 88, and some of those cuts that  
7 you're seeing -- I assume you're referring to Woodsdale.

8 COMMISSIONER JEBBIA: Yes.

9 MR. NESTOR: It's a cut that slopes back into  
10 the development. When you have a little time, I'll show  
11 you some cross-sections on that. I know there's concerns  
12 about cuts and cut slope stability, and really those  
13 things err on the side towards the development, but we  
14 will be diving into that in much more detailed  
15 circumstances later on in the design period.

16 COMMISSIONER JEBBIA: The one thing on the  
17 south boulevard that I was just sort of concerned with --  
18 I know once that gets brought down, the steepness of the  
19 road -- again, I know these maps say "not to scale." Just  
20 a -- I don't know -- quick calculation -- I don't know --  
21 it looks like you got a 15 percent slope going up the  
22 road. That's about 1,000 foot long, and it changes to  
23 about -- I think it's 195 feet in elevation.

24 MR. NESTOR: The boulevard in and out of the

1 development is at 8 percent. That slope on the road is  
2 really what drives a lot of the grading on the overall pad  
3 elevation. That's sets the elevation that you need to get  
4 to because it's for a commercial retail site development.  
5 It becomes a little bit uncomfortable for truck traffic  
6 and deliveries. 8 percent is about the maximum that we  
7 would like to go. We can see those limits get stretched a  
8 bit in some projects, but that's really one of the guiding  
9 factors in this one in terms of setting the overall pad  
10 elevation.

11 COMMISSIONER JEBBIA: Right. The one thing  
12 that I wanted to add, in the design, if you do do a south  
13 boulevard, you're going to have to handle the stormwater  
14 somehow coming down it. That's a long run. I know just  
15 where the ponds are -- you have retention ponds in  
16 different areas, but some of that stormwater is going to  
17 have to be handled coming off that because that's a long  
18 sort of like a channel or canal coming down through there.

19 MR. NESTOR: Yeah. Yeah. You're actually  
20 creating a box cut that comes up along that side. It  
21 comes off of that face, and it's going to bring it right  
22 back down to the entrance. Absolutely we'll be dealing  
23 with that from a permanent stormwater design scenario.

24 This phase in a project, as a civil engineer,

1 we're brought in to look at what's possible, what's within  
2 reason, what can we get out of it, and what are the  
3 types -- from a development acreage standpoint, what are  
4 the costs that you're going to incur to do that? So  
5 what's the earthwork for the project? If we do have  
6 factors that are driving such as road grades, stormwater  
7 management, things of that nature, let's work within those  
8 confines to find something that we believe is  
9 constructible, makes sense, and helps the developer come  
10 up with a pro forma that makes sense for the development.  
11 That's really what the initial phase of engineering is for  
12 this type of project, to create that sheet that we're all  
13 looking at.

14 Now, I will say that there's been a lot more  
15 development. As you-all know -- we're up to Exhibit 99 --  
16 there's been a lot more discussion, a lot more engineering  
17 that's been put into this one, well beyond what I have  
18 ever seen in my 20-year career of doing this type of  
19 development. So that's a good thing to a degree.

20 we would like to talk a little bit more in  
21 detail about what has been done from a permitting  
22 standpoint and what we believe the next steps are that  
23 would need to take place.

24 If that answers your question, I'd be happy to

1 dive into that a little bit further.

2 COMMISSIONER JEBBIA: I was just touching on  
3 the contour issue itself. One of the concerns that I have  
4 -- and, again, I know it's a conceptual map -- but  
5 you've got south boulevard, and it actually shows it going  
6 into a T-intersection, which goes over to Stratford  
7 Terrace, which is a very small residential neighborhood.  
8 I would not recommend putting a roadway over there. That  
9 road coming up through there, you're lucky to get two cars  
10 to be able to pass at the same time. So I can't see any  
11 additional traffic going down through there. Those are  
12 residential streets that go to dead ends. If you try to  
13 open that up, it's going to be a problem.

14 MR. NESTOR: Yeah. I understand, Russell. Our  
15 intent there is two-fold. One of the things that we want  
16 to accommodate with this development, aside from the mixed  
17 uses of the development, is an interconnected trail system  
18 that would allow some of these areas to be -- from a trail  
19 standpoint, to be able to utilize or get in and out of the  
20 development in a different way, a different fashion that  
21 didn't require getting in your car.

22 Now, our idea with making the connection there  
23 with a roadway and not just a trail, potentially being  
24 able to do some kind of temporary -- almost like a fencing

1 or blockade -- not temporary -- to allow for emergency  
2 access should we need it for some reason to be able to get  
3 to the either development through the subdivision or vice  
4 versa. There may be a circumstance in which you can't get  
5 to the existing residential development, but you got to  
6 come back through this one to get to it.

7 So one thing that we do a lot of times with  
8 emergency services, EMS, is we provide the ability to pull  
9 a gate or maybe you provide fire and public safety with a  
10 key to a gate that would allow them in special  
11 circumstances to be able to access.

12 So we don't intend for -- the traffic  
13 consultants can talk more about that as well, but we don't  
14 intend for any kind of regular traffic to come through  
15 here. That would only be as a backup.

16 CHAIRPERSON MAUCK: Rusty, is that road shown  
17 on one of those maps that you're referring to?

18 COMMISSIONER JEBBIA: Yeah. It's the south  
19 boulevard that comes down off of the hill on the lower --  
20 that would be the lower left side. You can see a portion  
21 of the road that's colored in gray that goes down along  
22 the little green embankment there, and that goes to  
23 Stratford Terrace, which is actually Alicia Drive. I know  
24 right now that when our garbage truck is there, nobody can

1 come down that street while the garbage truck is going up  
2 it. It's a very narrow residential area.

3 CHAIRPERSON MAUCK: Can we see that map on a  
4 slide?

5 MR. NESTOR: I'll share it here.

6 CHAIRPERSON MAUCK: Where is Rusty referring  
7 to?

8 MR. CONNELLY: Right here.

9 CHAIRPERSON MAUCK: Where?

10 MR. NESTOR: The bottom left.

11 CHAIRPERSON MAUCK: It's a little spur that  
12 goes to the bottom left of the page. There you go.

13 COMMISSIONER JEBBIA: Jeff, have you been over  
14 there on Stratford and how Stratford cuts off and how it  
15 was put together over the years?

16 CHAIRPERSON MAUCK: Yes.

17 COMMISSIONER JEBBIA: You know how sharp some  
18 of the turns are in order to make a switchback and then go  
19 up into there?

20 CHAIRPERSON MAUCK: Yes.

21 COMMISSIONER JEBBIA: I'm just very  
22 uncomfortable with that attaching to that little  
23 residential street. If it's not gated, if a truck would  
24 go through there, it's going to have to back all the way

1 back out. It's not going to make it down that hill.

2 MR. NESTOR: Again, the only reason that's  
3 there is for trail connection and emergency access. We're  
4 looking to provide a secondary way should there be an  
5 emergency. That's it.

6 COMMISSIONER JEBBIA: I understand that now.

7 CHAIRPERSON MAUCK: Commissioners, other  
8 questions?

9 Wendy?

10 COMMISSIONER SCATTERDAY: If you could pull the  
11 map up again in terms of secondary access.

12 The north roadway, I don't recall what the  
13 label is in terms of the name. So Warden Run Road  
14 entrance I guess is what the label is there.

15 CHAIRPERSON MAUCK: Yeah.

16 COMMISSIONER SCATTERDAY: Tom, if you can take  
17 your cursor just to the right.

18 The roadway is shown traversing two different  
19 parcels that are private property. So if the applicant  
20 could speak to how that's -- what's the plan there for --

21 MR. NESTOR: Again, what we're trying to do  
22 here is look at ways to mitigate traffic and alleviate any  
23 kind of potential for the need of a secondary entrance and  
24 exit. So one thing that we're doing is a boulevard. The

1 main entrance is a boulevard entrance. That does help us  
2 a little bit in terms of if there would be accident in  
3 there of some sort. But a secondary entrance such as that  
4 we believe would a benefit as well, and we wanted to show  
5 that.

6 COMMISSIONER SCATTERDAY: Your map and several  
7 other maps, when you cross-reference the tax map and the  
8 other available data, it does appear that there's not a  
9 cohesive -- between the two parcels that GC&P does own,  
10 there's intersecting two additional parcels that  
11 prevent --

12 MR. NESTOR: And I'll speak to that. That's  
13 just a little bit of an oversight on our part. So we can  
14 certainly adjust. I apologize for that. It's meant to be  
15 on GC&P property. We can adjust and provide the City with  
16 an amended map that shows it the other way. For  
17 conceptional purposes, we're showing the overall intent,  
18 and we would adjust that moving forward.

19 COMMISSIONER SCATTERDAY: Then none of the map  
20 information that I've seen shows that you have contiguous  
21 property. So is it your intent that you would be making a  
22 property purchase?

23 MR. NESTOR: No. We owned one of those two  
24 tracts. From our standpoint, the entrance is just a



1 little over, but that's something that we can fix. We're  
2 in the conceptual stage. We're certainly going to have  
3 to have that taken care of. We apologize that was put in  
4 somewhat the wrong place, but we will have that secondary  
5 entrance, and it will be on our property. We just want to  
6 move forward, and then we'll finalize it.

7 THE COURT REPORTER: I'm having a hard time  
8 hearing.

9 CHAIRPERSON MAUCK: Did you hear him, Wendy?

10 COMMISSIONER SCATTERDAY: Sorry.

11 CHAIRPERSON MAUCK: Did you hear him, Wendy?

12 COMMISSIONER SCATTERDAY: Yes.

13 The reason for my question is I'm trying to  
14 understand how realistic the concept is.

15 MR. NESTOR: It's entirely realistic, very  
16 realistic. That's a pretty minor adjustment on our end to  
17 pull that over. Probably why it got overlooked to begin  
18 with, but we'll get that fixed. I see no issues with  
19 pulling that over and keeping it on the client's own  
20 property.

21 COMMISSIONER SCATTERDAY: Along the same lines,  
22 could you help us understand other parcels that are  
23 illustrated on the maps that the property owner currently  
24 does not have control of? So I have questions regarding

1 where the main entry is located and then also where  
2 Route 88 is proposed to be widened. The maps weren't real  
3 clear on what amount of the City of Wheeling property  
4 that's associated with the baseball field. So what I was  
5 seeing -- what I thought I was seeing on the map is where  
6 the road is widened for southbound travel, that that would  
7 be encroaching on the baseball field area. Can you help  
8 us clarify what your maps are showing?

9 MR. NESTOR: Along 88, some of that is existing  
10 State right-of-way. There may be -- depending when we get  
11 to the further stages of design and working through the  
12 infrastructure of that project, they need to acquire a  
13 little bit more, but the intent would be to utilize  
14 properties that are on the opposite side of the baseball  
15 field. So if anything, it would be my recommendation that  
16 if anything were to be done there within our power to  
17 shift it into the property, that's where that initial  
18 requirement would go rather than on the opposite side of  
19 the road. It would be cleaner for everyone involved. So  
20 that's where we would go with it.

21 we don't know exactly what needs to be done  
22 there yet because we're not to that stage. Once we get  
23 there, we would address any kind of right-of-way concerns  
24 to be placed.

1           As you know, 88 is a turnpike. There's a  
2 significant right-of-way there. We can do a lot within  
3 the existing right-of-way. If we've got to pull off some  
4 property on the development side, then we certainly could  
5 do that.

6           COMMISSIONER SCATTERDAY: So on that opposite  
7 side then, does the property owner -- there are several  
8 individual parcels there. When the initial submissions  
9 were made back in August -- and you can reference the  
10 original map and property owner lists -- there were  
11 different parcels that were not under the control of the  
12 applicant. So has the status of -- what's the status of  
13 all those small parcels that are along that edge?

14           MR. MICHAEL HOOPER: Actually, I can speak to  
15 that part.

16           We're sharing the screen. I didn't mean to  
17 scare you. It's the best that I can do.

18           But in any event, we submitted a number of  
19 drawings, some of which, again, showed property that we  
20 would like to have, some of them showed entrances based on  
21 what we do have. Again, I think we submitted at least  
22 seven different variations. We own the majority of the  
23 property as you're going out of town on Route 88. We do  
24 not own all of them.

1           Again, we will work within the property that we  
2 own. We certainly have the property that we need to  
3 create the acceleration and deceleration lanes that we  
4 have contemplated and presented drawings of.

5           But at this point, we have the properties that  
6 we have and what we need. If we need more, we'll deal  
7 with it. At this point, we have what we think we need to  
8 provide what we said we were going to provide.

9           COMMISSIONER SCATTERDAY: Thank you.

10          CHAIRPERSON MAUCK: Rosemary?

11          MS. HUMWAY-WARMUTH: Thank you.

12           Just to clarify for purposes of the Commission,  
13 you initially stated, as far as the consultant -- and I'm  
14 not going to use names -- but in regard to the mine map,  
15 the mine map overlay -- so the mine map versus the  
16 development map, what are we talking here? Mineral mine?  
17 I would like to have that clarified for the record.

18          MR. NESTOR: The overlay on that development  
19 plan is the Pittsburgh No. 8 mine. It's coal. That's the  
20 low grade coal mine.

21          MS. HUMWAY-WARMUTH: So did your calculations  
22 and did your opinion come also in reviewing the removal of  
23 the limestone overburden which, I think, is at 7 million  
24 cubic whatever. Did you review that also?

1 MR. NESTOR: Yeah. I considered it. Although  
2 many of these issues are related separate, I can get into  
3 the earthwork part of this and would be happy to. It's a  
4 surface issue as part of the permitting that will need to  
5 take place on this property moving forward, but I'll let  
6 the geotechnical engineer speak in terms of the mine work.  
7 That's kind of a separate issue.

8 MS. HUMWAY-WARMUTH: There have been several  
9 times tonight within this discussion where you've said  
10 that this is not final and that you just -- and  
11 Mr. Hooper, I think, said when we move forward, we'll  
12 finalize. I think you stated that you'll get that fixed,  
13 we don't know where we are yet. Where are we? Where are  
14 we now? (Audio distortion) that you provided to the  
15 Planning Commission does need to provide them substantial  
16 information for them to make the decision. That's all I'm  
17 asking right now. Because a lot of it seems to be, you  
18 know, if this, then that. So it's a little -- it's a  
19 movable beast if we will.

20 MR. NESTOR: Well, I can speak to that, and  
21 certainly, Mr. Hooper, you can tell me to shut up if I go  
22 too far.

23 But, frankly, I've been doing design  
24 development for a broad number of clientele over the

1 years. what we do at this stage is we develop enough of a  
2 plan to know that a project is feasible. we understand  
3 what the issues could be, and we know that we can overcome  
4 them and make something work.

5 But you don't spend so much money up-front when  
6 you don't know if you're able to use the land in a way  
7 that you want to use the land. So my recommendation to  
8 this client or any of my clients would be don't go there  
9 yet. we're trying to figure out whether we're going to be  
10 allowed to develop this in a way that we want to. If we  
11 don't, I'd say absolutely. Do enough geotechnical  
12 information, which we've done, to know up-front if we can  
13 make this project work, but don't go the whole nine yards  
14 until we know that we can get somewhere with this. It  
15 just doesn't make sense to.

16 we've been doing this for 20 years in the same  
17 manner. Again, this group has gone above and beyond on  
18 the up-front investigation, more than I've ever seen, and  
19 it would be very difficult to go beyond that. So what we  
20 would like to do is say, okay, we know we've got a  
21 feasible plan, we can do this and overcome any kind of  
22 issues that may be seen throughout --

23 MS. HUMWAY-WARMUTH: Okay, sir. I'm going to  
24 stop you right there. That's where I have the issue. We

1 have staff persons here that are well over 20 years, well  
2 over several decades. I just want to make sure for the  
3 record that you're telling -- you're going to present  
4 information to this Commission that you believe that you  
5 can -- that this will overcome any of the concerns, the  
6 concerns of the public works director, even at this point  
7 in regard to the grading and going within the neighborhood  
8 of woodsdale and having a second issue, and now it's going  
9 to be a bike track, whatever.

10 I'm just saying for the purposes of this  
11 record, you have said when we move forward, we will  
12 finalize these things -- that was Counselor Hooper -- and  
13 you don't know where we are yet. Well, I think this  
14 Commission deserves the ability to know where you are now.  
15 That's all I'm going to say.

16 CHAIRPERSON MAUCK: Thank you, Rosemary.

17 Any other questions, Commissioners?

18 MR. MICHAEL HOOPER: Actually, let me answer  
19 that. Let me be very clear. Without knowing whether we  
20 are approved to move forward, we have provided thousands,  
21 tens of thousands, probably hundreds of thousands of  
22 dollars worth of drawings and engineering studies. When  
23 you get to final geotech and you get the final site plan,  
24 then you have to do the requisite engineering to decide.

1 what we don't know -- we would like for the residential to  
2 be in the south section. We would like Pad D to have a  
3 hotel, but maybe the hotel is going to be somewhere else  
4 because whoever wants to lease the property wants it to be  
5 somewhere else. That's a whole different geotechnical  
6 issue. Whatever the final use is dictates what the  
7 geotechnical study needs to be, and we can't make those  
8 final decisions until we get there.

9 Certainly when we get in and we are starting to  
10 move forward with Phase 1, we may find things. We may not  
11 find things. But we have already identified more issues,  
12 and we think we've identified all the problem areas.

13 The City is assuming that we're just going to  
14 go in and build willy-nilly. We have, as you can see from  
15 our exhibits, dozen of permits that we have to have.  
16 We're not going to do anything that's not permitted and  
17 thoroughly researched. But we can't get into the final  
18 weeds until we know if we have an apple or an orange.

19 Now, you have what we want to build. To  
20 fine-tune that gets into final site plans, which is Step 3  
21 of the normal process. We're only at Step 1. We still  
22 don't know what the zoning is. Now, granted you may say  
23 that if we're going to this, yes, everything is going to  
24 be C2, but you might decide in the zoning process that



1 it's not going to be all C2, and we have to adjust the  
2 plans.

3 So, again, we're in this chasing our tail  
4 trying to predict everything that's going to happen over a  
5 five-year period on a 100 million plus development which  
6 we just can't do at this point.

7 The same with the traffic study. We would like  
8 to move forward with it, but we're not going to sign an  
9 agreement that's going to say that we're going to do  
10 whatever the State tells us we have to do when we don't  
11 know what the final project is going to be. If it has  
12 more office, that's a different traffic study. If we move  
13 anything that's a whole different traffic study. We're  
14 giving you everything we can.

15 MS. HUMWAY-WARMUTH: Counselor Hooper, a C2  
16 zoning area envelops all of those things. It envelops  
17 everything you said. It envelops residential. It  
18 envelops everything that you have planned, and that's why  
19 the C2 encompasses that.

20 MR. MICHAEL HOOPER: I'm well aware what could  
21 be in a C2.

22 MS. HUMWAY-WARMUTH: Yes, sir.

23 MR. MICHAEL HOOPER: If we are putting a 1,500  
24 square foot house on a piece of property, that's a whole

1 different geotechnical issue than putting a five-story  
2 office building on it.

3 MS. HUMWAY-WARMUTH: That's exactly right.  
4 That's an R1 district. That would be an R1 district where  
5 this is zoned right now.

6 But everything you have planned -- everything  
7 that your developer has planned is encompassed within a C2  
8 because you want to do other things. But, yes, single  
9 residential family units can be built up there without  
10 need to -- maybe some subdivision issues, but other than  
11 that --

12 MR. MICHAEL HOOPER: Rosemary, you're missing  
13 my point. My point is the stability and the geotech for  
14 that portion of the development that is allocated now as  
15 residential, let's call that X. It requires scrutiny at a  
16 level X. But where a hotel is going to go is going to  
17 require X times five.

18 MS. HUMWAY-WARMUTH: Right.

19 MR. MICHAEL HOOPER: So to get to that point,  
20 we need to be sure that that's exactly what the market is  
21 going to bear five years down the road.

22 MS. HUMWAY-WARMUTH: I'm sorry. I'm sorry.  
23 I'm not sure that that's correct. We shan't argue this  
24 anymore. The market data is not what the Planning

1 Commission is here to listen to. That's not what the  
2 Planning Commission looks at. That's not it. So it's a  
3 whole different parameter.

4 MR. NESTOR: Can I make a statement here? I  
5 think it's important to understand -- and something that  
6 we get lost in the details of what's going on top of the  
7 pad -- It's important to understand that when this project  
8 -- the City has a very specific instruction and  
9 requirement in terms of what documents need to be  
10 submitted and reviewed by engineering and reviewed by  
11 planning staff. From how it lays out to how it subdivides  
12 to how the stormwater is treated, all that's spelled out  
13 within the site plan process. It starts with the sketch  
14 plans, moves through preliminary plans. It works out all  
15 the details. That's the step in which a plan like this,  
16 this one sheet turns into about 150. It breaks out very  
17 detailed profiles and cross-sections and shows the  
18 stormwater report that handles the quantitative and  
19 qualitative controls and where it goes and if it's a  
20 combination of big ponds and the street plan. There's a  
21 lot that goes into that. The City covers that, as do most  
22 cities that we work with, covers that in their typical  
23 process. We're just stuck in the step before which says  
24 what are we allowed to do. Once we know what we are

1 allowed to do, then we go through all that, which is going  
2 to take a lot of time, an engineering investigation, and a  
3 lot money and a lot of work with the local regulators.

4 MS. HUMWAY-WARMUTH: I do believe that the City  
5 and the Planning Commission totally understands that.

6 The fact of the matter is, this is a very  
7 unique development, and from our update of our  
8 Comprehensive Plan within the past few years, wherein this  
9 developer did participate in regard to public comment, and  
10 the Planning Commission was quite keen upon listening to  
11 the information being provided for different areas  
12 throughout the City, but this area has a special  
13 development procedure. It needs to be followed. That is  
14 all the City is going to say. When it's followed, that's  
15 great, but it needs to be followed, and that's all the  
16 City is looking at and this Planning Commission should be  
17 looking at.

18 The site plan is down the road. However, some  
19 of the things that one might look at a site plan are  
20 integral to the change of the zoning of this area.

21 I'll be quiet right now, Chairman Mauck.

22 CHAIRPERSON MAUCK: Thank you.

23 Wendy, do you have a question?

24 COMMISSIONER SCATTERDAY: I just wanted to

1 clarify the status. So I understand, Ascent is presenting  
2 these drawings, and thank you for that. Ascent, are you  
3 replacing the Thrasher Group? Are they not on the project  
4 any longer? I'm just trying to get clear. Is Thrasher  
5 not part of the project team any longer?

6 MR. NESTOR: So how this is done, how this is  
7 unveiled is -- between myself and my business partner,  
8 Zach Assaro who is here as well -- Zach especially has  
9 background knowledge -- we both have worked there at one  
10 point in time, had developed a lot of the preliminary  
11 information and worked with the developers on this to the  
12 point where we just know the project better. So the  
13 developers thought it best moving forward on the site, the  
14 civil end of things, for us to handle the project.  
15 Thrasher may be involved in parts of the project still,  
16 such as utilities and things like that, but for the  
17 development, land disturbance, permitting, Ascent will be  
18 handling that from here on out.

19 MR. MICHAEL HOOPER: Unfortunately, we asked  
20 the representatives from Thrasher to attend, but they just  
21 couldn't tonight. Tonight was just not an available  
22 night. I don't know if they are just busy with  
23 pre-election work. I'm not sure. In any event, they just  
24 couldn't make it.

1 CHAIRPERSON MAUCK: Thank you.

2 MR. NESTOR: Thank you.

3 CHAIRPERSON MAUCK: Any other questions before  
4 we move on?

5 COMMISSIONER WRIGHT: I do have a question.  
6 Before we move on, in order to sort of organize our  
7 questions, who all do we have with us? what is the order  
8 of what is being presented?

9 CHAIRPERSON MAUCK: Say that again.

10 COMMISSIONER WRIGHT: well, in order to sort of  
11 organize our questions, who is presenting what and in what  
12 order? Mr. Hooper has brought a number of people here.

13 CHAIRPERSON MAUCK: I have a list that I'm  
14 going to follow, and Mike is going to follow right along  
15 behind me. When I get to that point, I'll tell you what  
16 we're going to talk about.

17 Since you asked next, we're going to talk about  
18 the permits that this project needs from the DEP.

19 Mike.

20 MR. MICHAEL HOOPER: well, I'll slide this back  
21 over. Who is going to work on that one?

22 MR. NESTOR: I'll stay there.

23 I'm going to buzz through some stuff hopefully  
24 kind of quickly here, and if we can have a discussion on

1 the back end of that, that would work well.

2 CHAIRPERSON MAUCK: Are we talking about the  
3 DEP?

4 MR. NESTOR: Yes.

5 MS. HUMWAY-WARMUTH: Could we hear from the DEP  
6 first?

7 CHAIRPERSON MAUCK: Yes.

8 MS. HUMWAY-WARMUTH: Thank you, sir.

9 CHAIRPERSON MAUCK: That way we won't have to  
10 hold Deputy Secretary Scott Mandirola up. He can share  
11 with us, and then he can log off.

12 MR. MANDIROLA: In particular, currently --  
13 well, in the past, they've had a stormwater construction  
14 permit, which is needed for the construction of the  
15 project. Any earth-moving activity, it primarily requires  
16 BMPs on the site during the earth-moving earth disturbance  
17 to keep sediment from leaving the site. That's what they  
18 currently or in the past have had.

19 They currently have an order in place. This is  
20 an order that was put out by the DEP because when the  
21 stormwater construction permit was reissued, it was  
22 appealed. So there was a period of time in which you  
23 could not transfer an old permit to the new stormwater  
24 permit. It's a registration on a permit. So they have an

1 order in place, as do all of the other holders of  
2 stormwater construction permits in the State.

3 The appeal has been resolved, and the order  
4 dictated that within 30 days of receipt of the order, the  
5 permittee had to apply for a new permit on the new general  
6 permit. They have applied. They applied within the  
7 30-day period. There was a correction letter sent out on  
8 Friday to them that involves clarification of some of the  
9 accesses to the site, the borrow areas and a few other  
10 technical issues, including signage that is required in  
11 order for us to issue the registration. Like I said, that  
12 was sent out on Friday.

13 MS. HUMWAY-WARMUTH: Okay.

14 MR. MANDIROLA: To do the earth-moving  
15 activity, they would need the stormwater construction  
16 permit.

17 Post construction, they are within the wheeling  
18 MS4 region. So there's a multi-sector permit that they  
19 will have to follow. That's the permit that the City has  
20 to manage their stormwater. They would have to follow  
21 those requirements as dictated in your permit, the City of  
22 wheeling permit.

23 Earlier last week I had a discussion with Rose.  
24 She had given me a call. There's been some discussion



1 about selling the stone from the site during the  
2 preparation of the base. So there's apparently an  
3 overburden on the site that is quality limestone that the  
4 owner of the property is interested in selling. They  
5 talked to the DEP about it, and I explained to Rose as  
6 well. They would have to acquire a quarry permit in order  
7 to commercially sell any of the gravel or limestone coming  
8 off that site while they are developing their pad.

9 The stormwater construction permit, which  
10 should be going out to public notice shortly, because it  
11 hits the threshold of over one year of construction, will  
12 be required to go to public notice.

13 If they come to us and ask for a quarry permit  
14 for this site so they that they can sell the material,  
15 that permit would also -- that permit would also be  
16 required to go to public notice.

17 We were there. Our inspection crew was there  
18 last week. We went out to take a look at the site. I  
19 actually gave them a call and said, look, I'm going to be  
20 on a call with the City of Wheeling. I wanted to know to  
21 what the site looks like. The report that came back and  
22 said that the site currently is stabilized, and they are  
23 in compliance with their permit and their order.

24 That's kind of a general overview.

1                   Is there any specific additional questions?

2                   CHAIRPERSON MAUCK: Rose, I'll give you the  
3 floor first.

4                   MS. HUMWAY-WARMUTH: well, I prefer if you --  
5 I'm going to yield back to the commissioners, except that  
6 everything that Scott -- Mr. Mandirola had stated was in  
7 accord with what we had discussed.

8                   Although I'm looking at -- I'm looking at -- I  
9 sort of flagged this. I have concerns all over the place  
10 that I discussed with Assistant Director and Planning  
11 Administrator Connelly in regard to the interpretations of  
12 the code in regard to quarrying and things of that nature.  
13 So I'm just -- I can understand what you're saying, that  
14 they are in compliance at this point in time.

15                   I also understand that there's an application.  
16 We would like to have a copy of that. I don't know if  
17 it's been posted. When I spoke with you, it was not  
18 posted, the application. It increased from seven to  
19 eight acres from before, which was kind of in stasis, and  
20 now it's going to be the full development area, slightly  
21 under 100 acres, clearly making it that it's going to put  
22 it -- it's clear the design for development is over  
23 one year. So that would trigger a public comment. I  
24 think, for our public, we would like to know what that

1 process is. I know there's a notice period, et cetera.

2           However, the definitions of quarrying, that's a  
3 subcategory that I think -- if we look at all of the  
4 documents and what is even in the mapping as to the  
5 7 million cubic tons of marketable limestone, how one  
6 would come to believe that removal of such -- even over  
7 overburden and even over other things from the definitions  
8 within that statute, how does that not come into the  
9 purview of quarrying to require a permit in your opinion?

10           MR. MANDIROLA: The hinge there to require a  
11 quarry permit -- if they are getting down to a certain  
12 base level in order to do their development and they are  
13 just spoiling that material, basically removing it, they  
14 have a spoil area that they are spreading it on, they can  
15 do that without a quarry permit if it is not being  
16 marketed.

17           The key to acquiring a quarry permit is if the  
18 material is being marketed for commercial sale. Other  
19 than that -- if they were taking that limestone, basically  
20 just blowing up the property and removing that material to  
21 get down to a base level, and they requested to permit a  
22 spoil area that could handle that volume of material, that  
23 area would be permitted as well, and that material would  
24 be moved from one location to another. There would be

1 BMPs in place to be sure that it's done an  
2 environmentally-protected manner, but that's not  
3 considered quarrying. Quarrying is a very specific  
4 activity that deals with the marketing of the material  
5 from our perspective. I'm not saying -- I mean, it may  
6 look like a duck and smell like a duck, but that doesn't  
7 make it a duck under our qualifications from our  
8 perspective as far as needing to quarry-permit a piece of  
9 property.

10 MS. HUMWAY-WARMUTH: So for the record then,  
11 your belief would be, if this was taken away -- over a  
12 five to 10-year period, taken away and stored at a  
13 different location for purposes of sales at a later date,  
14 the State of West Virginia would not require them to go  
15 through the quarrying permit process?

16 MR. MANDIROLA: That's not what I said.

17 MS. HUMWAY-WARMUTH: Okay.

18 MR. MANDIROLA: If the material is deposited in  
19 a spoil area, that area would then have to be stabilized.  
20 So that site would need to be closed out. It's not being  
21 stored for sale. It's not marketing the material. It is  
22 spoiling the material. Similar to -- and I hate to use  
23 valley fill as an example, but when you're removing  
24 overburden in order to get to a coal seam, there's

1 typically a spoil area, whether it be valley fill or  
2 adjacent mined-out area where you're building that back up  
3 to a level. That's considered a spoil area. That's not  
4 being directed for sale.

5 MS. HUMWAY-WARMUTH: I get that.

6 MR. MANDIROLA: I'm not going to speculate  
7 whether someone is or isn't going to some day at a later  
8 date do something to the material. We have no crystal  
9 ball to do that. In fact, at this point in time, we've  
10 had discussions with the developer, but we have no quarry  
11 permit in our possession. The only permit we currently  
12 have in possession is the construction permit for this  
13 site.

14 MS. HUMWAY-WARMUTH: So what recourse would the  
15 City of Wheeling have in regard to this property if it was  
16 not taken to a spoilage area but taken to an area, which  
17 by all of the deeds and the other information that we have  
18 here is that it was to -- I think in the deed book here,  
19 it states with GC&P and GASP, all limestone, dolomite,  
20 sandstone, gravel, sand, slate, clay, rock and any other  
21 commercially sellable materials or aggregates of such  
22 materials, collectively the stone, and the overburden and  
23 fill, not including the stone, are all needed for purposes  
24 of sellable material.

1           So what resource would the City have, and with  
2 the DEP -- what would we -- what are our remedies if this  
3 is indeed -- there's a removal of the overburden, but at  
4 some point in time, it is clearly an intent to be  
5 sellable? That's that big question that we have. From  
6 the documents that are public documents and -- as I think  
7 Counselor Hooper said, they are, quote, good businessmen.  
8 I think the City just needs to know that.

9           CHAIRPERSON MAUCK: Commissioners, questions of  
10 Mr. Mandirola?

11           Wendy?

12           COMMISSIONER SCATTERDAY: Thank you, Deputy  
13 Secretary, for joining us.

14           If you could explain the spoil area definition  
15 or concept, is it understood or implied or typical that a  
16 spoil area would be still within the same property  
17 boundary lines of where the fill is removed, or is there  
18 somehow a difference -- if the material crosses the  
19 property line, exits the property and goes to another  
20 location, whether that location is in West Virginia or  
21 across state lines, help me -- help us understand kind of  
22 what's normally anticipated regarding a spoil area.

23           MR. MANDIROLA: A spoil area can be contiguous.  
24 It does not necessarily have to be contiguous. There's a

1 lot of speculation of what-ifs here. In the conversations  
2 that we have had with the developer, the developer has  
3 indicated to us -- and their contractor Ascent has  
4 contacted us and told us they are going to get a quarry  
5 permit for the site in order to sell the material. So I'm  
6 a little uncomfortable in speculating on what-ifs.

7 we have highway projects that we permit where  
8 the spoil area -- there may not be room within the  
9 contiguous boundary of the construction of the road to  
10 spoil the material, so they may bring it to an alternative  
11 site. Sometimes close by. Obviously close is better  
12 whenever construction is taking place because traveling --  
13 transporting material is always an issue. But it does not  
14 have to be within the contiguous site.

15 MR. NESTOR: Hey, Scott.

16 MR. MANDIROLA: Yes.

17 MR. NESTOR: I think another thing that is  
18 important to understand here is -- I welcome your  
19 feedback. This can be done in a phase approach, and  
20 actually the intent would be to do an initial phase that  
21 dealt with a lot less earthwork-moving, with a great deal  
22 of that being able to be moved on site. The goal of the  
23 developer is to keep as much of the material on site as  
24 possible. However, we know there will be a significant

1 amount that has to leave.

2 Another thing that we had discussed -- and I  
3 just want you to correct me if I'm wrong here -- if this  
4 material -- say the sellable material, the limestone were  
5 to be utilized in conjunction with state or federal  
6 projects such as a highway project where they could  
7 benefit from a good price of stone, then in that case, if  
8 it goes to that type of project, that would also be exempt  
9 from a quarry permit; is that correct?

10 MR. MANDIROLA: Right. That's an exemption  
11 that's clearly spelled out in the regulations.

12 MS. HUMWAY-WARMUTH: Okay.

13 MR. MANDIROLA: I'm sorry. I wasn't sure if I  
14 was muted or not. Sorry about that.

15 MS. HUMWAY-WARMUTH: And I do appreciate that,  
16 Deputy Secretary. We've talked about this. I didn't want  
17 to overstep, but these are some of the things that we had  
18 talked about on the telephone.

19 MR. MANDIROLA: And I completely understand.  
20 I'm not trying to side-step any questions. At this point  
21 in time, I have no reason to suspect that this -- they  
22 have indicated to us -- I won't say we didn't have a lot  
23 of discussions about it initially trying to figure -- with  
24 them trying to figure out if they potentially could get



1 away without a quarry permit, but it's been clearly stated  
2 by the DEP that they would require a quarry permit in  
3 order to sell the material. They indicated to us that  
4 they are in the process of getting a permit together and  
5 that they were going to sell the material -- that is  
6 within their plan -- and that they were getting a quarry  
7 permit to do so.

8 MS. HUMWAY-WARMUTH: Right. And that's kind of  
9 a good bottom line for the Planning Commission to be aware  
10 of.

11 Thank you, sir.

12 MR. NESTOR: Scott, one more thing, and I  
13 certainly appreciate you being on this. I believe as an  
14 integral of quarry permit, should we need to go that  
15 route, we need to be able to submit to the DEP what the  
16 ultimate land use is for the property.

17 MR. MANDIROLA: Yes.

18 MR. NESTOR: Correct? That's one thing that we  
19 have to get past this point of discussion that we're  
20 having trouble getting to is -- let's get a concurrence on  
21 what that land use is. Then if that's not done, we can't  
22 even submit to your office.

23 MS. HUMWAY-WARMUTH: well, I'm just going to  
24 object. I'm going to state that I'm not sure why that is

1 because it seems --

2 MR. NESTOR: It's in the regulations. That's  
3 one of the requirements.

4 MS. HUMWAY-WARMUTH: Right, but also the  
5 requirement would be -- I think the City of Wheeling and  
6 any other municipality within the State understands what  
7 your ultimate land use is, but if there is -- to get  
8 there -- to get there, there has to -- if a quarrying  
9 permit is needed for five, eight, seven, 10 years, I think  
10 that those are facts that the DEP may want to know.

11 Maybe the director can clarify that for us.

12 CHAIRPERSON MAUCK: Howard, do you have a  
13 question?

14 I can't hear you.

15 COMMISSIONER SCATTERDAY: Howard, you're on  
16 mute.

17 COMMISSIONER MONROE: we're hearing the  
18 developer has told me, and we're hearing Rose say, I think  
19 -- we have Mr. Hooper representing the developer. We have  
20 members of the team there, and we believe Mr. Grayson is  
21 somewhere in the background. Can we have them tell us?  
22 Are you going to get a quarry permit? Is it your intent  
23 to sell this product? Rather than talk about him like  
24 potted plants in the background, can we just ask them

1 right here right now?

2 MR. MICHAEL HOOPER: This is Mr. Grayson.

3 MR. GRAYSON: Hello. Thanks for the question,  
4 Howard.

5 So our intent is to do this site work in  
6 phases. What we're talking about is the temporary site  
7 work that needs to be undertaken in order to create the  
8 development pad, the 950-foot elevation. There's a  
9 substantial portion of the site work that is dealing with  
10 overburden and dealing with stuff that is normally  
11 permitted by many developers throughout the State under  
12 the stormwater permit path requirement. So the initial  
13 phase of what we're proposing to do here will be to do it  
14 under a stormwater permit in an initial phase.

15 Subsequent phases will likely involve the  
16 application for a quarry permit in order to do this  
17 temporary site work to complete it, unless some  
18 circumstances were to change in the intervening time  
19 period. For example, if a project became available to be  
20 able to get an exemption, and then we would just expand  
21 the stormwater permit that was currently in place for the  
22 site.

23 So it really will depend on -- we're talking  
24 about a fairly significant undertaking to accomplish site

1 work to get this site to a 950 elevation so we can do the  
2 development.

3 Things will change. Circumstances will change  
4 as that work progresses. Perhaps we will remain on the  
5 path of needing to get a quarry permit for the temporary  
6 site work to do the balance of it or perhaps something  
7 will come up like, for example, a public project that  
8 needs the material, which would then potentially make the  
9 removal of it and the export of it off site qualify for an  
10 exemption.

11 COMMISSIONER MONROE: And I understand that.  
12 It makes perfect sense to me. I get that this is  
13 conceptual and a lot of things can change, but we do  
14 have to have some sense of where you're headed, and that's  
15 what I'm trying to get to. I get that things can change.  
16 I certainly understand if another project comes along and  
17 you have use for it, you wouldn't have to necessarily  
18 quarry or sell it.

19 But your game plan, absent any change, would be  
20 at some point to engage in a quarry permit; is that  
21 correct?

22 MR. GRAYSON: Well, let me put it this way:  
23 Our big-picture game plan is to perform temporary site  
24 work to get the site to a 950 elevation. Now, in order to

1 achieve that goal, you go to DEP and you tell them that's  
2 our goal, and then they tell us what the potential paths  
3 are in order to accomplish that goal, which is what  
4 they've done. They said that if you like to sell this  
5 stone as a mineral, then if you get to the point where  
6 you're doing that, marketing that stone as a mineral, then  
7 you'll need a quarry permit. We're prepared to get a  
8 quarry permit if that's where we end up in the course of  
9 trying to accomplish our objective of getting this site to  
10 a 950 elevation.

11 But there's a lot of material being used on  
12 site that we would commence with. That's the first  
13 material we get to, the material that's moved on site.  
14 That material can be done under a stormwater permit.

15 So I would say that the clearest way I can put  
16 this is that we have a goal of performing temporary site  
17 work to get to the 950 elevation, and depending on the  
18 disposition of the material off site, whether it's sold as  
19 a mineral or not, will determine how much of it is done  
20 under a stormwater permit and how much of it is done under  
21 a quarry permit, if necessary.

22 MS. HUMWAY-WARMUTH: Can I ask one question?  
23 Maybe this is not for you, Mr. Grayson, but maybe for hour  
24 Ascent Consulting & Engineers.

1           In this map that the City was given, it says  
2 "GC&P Development" right up here in the corner, and I have  
3 highlighted that in speaking with Mr. Connelly. It says  
4 earthwork summary, cut, 9,358 whatever, fill, 87,200  
5 sellable minerals, 7 million CY, topsoil, 245 net waste, 2  
6 million, sellable minerals. How do you believe the  
7 Planning Commission should interpret that in regard to the  
8 intent for sellable minerals?

9           MR. NESTOR: It's just quite simple. The  
10 reason for making that notation is that there is that  
11 quantity of limestone present within the earthwork of that  
12 site. Now, a large part of that is going to be utilized  
13 on site for development of the pads, roads. Every time  
14 you build a road, you need to put stone underneath the  
15 blacktop surface. So there's a lot of things like that  
16 that are going to be done within the project that takes up  
17 a significant amount of the, quote, unquote, sellable  
18 mineral.

19           MS. HUMWAY-WARMUTH: Has that been accounted  
20 for in some of the planning documents that the Commission  
21 can look at?

22           MR. NESTOR: I can't speak right off the top of  
23 my head about the 99 maps and what you've got, but what I  
24 can tell you is that out of 9 million cubic yards of

1 earthwork, 3 million is going to be utilized on site, and  
2 then you've got another million that is kind of incidental  
3 to their operations.

4 At the end of the day, in order to accomplish  
5 that pad that you're looking at on this particular map, it  
6 requires about 5 million yards of material to leave the  
7 site. Doug talked about -- there's some different things  
8 that would have to take place before we know exactly what  
9 that use is, but that is the amount of material that would  
10 come off.

11 MS. HUMWAY-WARMUTH: Thank you. I believe my  
12 recollection was it began at 9 million and it's now 7  
13 million, but even if there's some use on site, there's  
14 still 7 -- this is from your drawings, Ascent Consulting &  
15 Engineering -- 7 million CY sellable minerals. That's  
16 what --

17 MR. NESTOR: Again, that is just quantifying  
18 how much stone is within the cut. That doesn't mean that  
19 it all leaves the site.

20 MR. MICHAEL HOOPER: Can I ask Rose a question  
21 for a second?

22 CHAIRPERSON MAUCK: Sure.

23 MR. MICHAEL HOOPER: Rose, help me understand  
24 why the City is so hung up on whether or not it's a

1 stormwater permit or a quarry permit. They both have  
2 requirements under the west Virginia DEP which will be met  
3 regardless of which path is chosen. I think what we're  
4 trying to say here -- and certainly Deputy Commissioner --  
5 Deputy Cabinet Secretary can speak about this as well --  
6 but regardless, it has to be permitted. It's under State  
7 supervision, and it's done in phases. You don't just go,  
8 okay, we need to do this, we're going to get a quarry  
9 permit and have at it. All these projects are done in  
10 phases with the appropriate permit at the appropriate  
11 time, and what we're saying is it's premature to say, yes,  
12 we need a quarry permit and we're going to expend tens of  
13 thousands, if not hundreds of thousands dollars to get a  
14 quarry permit at this point. It does not make sense when  
15 you don't have a plan that's approved. It's like saying  
16 I'm going to have architect do plans on a building that I  
17 don't own yet.

18 MS. HUMWAY-WARMUTH: I'm going to answer this  
19 real quickly. I'm going to turn this over to Assistant  
20 Director Tom Connelly who can address this, which is what  
21 the City has been addressing for at least five years as to  
22 the proverbial cart before the horse, that if -- because a  
23 quarry permit would require a totally different zoning  
24 issue to be addressed within the City of Wheeling.



1           Mr. Connelly, you can mute me and please go  
2 forward and address this matter, because that's been an  
3 issue from Day 1.

4           MR. CONNELLY: Yeah. There have been basically  
5 a few issues that I've been trying to work through for a  
6 number of years. One is the Department of Environmental  
7 Protection permitting process and one is the Department of  
8 Highways. I was satisfied with the proposed development  
9 plan as a potential development, understanding that there  
10 will be tweaks to a final site plan.

11           I agree having 99 different site maps at this  
12 stage was unexpected, and even getting these last four,  
13 actually it kind of changed the process a little bit  
14 because all the comments that we've been taking up until  
15 this date have been based on the preferred development  
16 plan and the different maps that have been presented. Now  
17 all of a sudden there's a south boulevard, a new road, an  
18 entrance on Warden Run Road. So people who haven't  
19 commented for the past several months now all the sudden  
20 may be interested in the project maybe because now there's  
21 an exit right across from a neighborhood or there's an  
22 internal drive into Woodsdale. So the newest site  
23 development site plans are a little different than what  
24 had been proposed, but they are different in a way that

1 would impact more people.

2 As far as the quarrying permit goes, when this  
3 all started in 2015 or whenever the initial stop work  
4 order was issued on the property and we were researching  
5 property ownership issues, and we came across things like  
6 GC&P Development, GC&P Aggregates, and now more recently  
7 GACS, I was trying to figure out who is who and what the  
8 purpose of having a deed with specific language of selling  
9 materials. Your first letter to us in July said that your  
10 office represents GC&P Development, GC&P Aggregates.  
11 We're talking about commercially sellable material. A lot  
12 of the maps have the volume that will stay on site versus  
13 being sold.

14 I started thinking. Well, it's zoned R1A. You  
15 can't operate a quarry in a residential district. How can  
16 we see this possibly going through to fruition if you  
17 can't have a single family district with a quarry  
18 operating in it.

19 I think in looking through the DEP's  
20 regulations, there's a lot of opportunity for the DEP to  
21 look at the impact of the proposed quarry on surrounding  
22 areas. Is it within an urban area? I don't think there  
23 are many quarries operating inside city limits across the  
24 State. It's a unique request. It's a large undertaking,

1 what's being asked of the Commission to change the  
2 conservative development district to a district for new  
3 use.

4 The Comprehensive Plan is pretty clear that you  
5 have to undertake some special engineering to do. You're  
6 asking the Planning Commission for a favorable vote to  
7 undertake this large project without really giving the  
8 Planning Commission the special engineering techniques  
9 that is going to accomplish that.

10 I'm now hearing that you would like to just  
11 keep going with the stormwater permit as long as possible  
12 and not engage into the quarrying permit. I think that  
13 takes a lot of the reviewability away from the DEP for  
14 impact. I think it doesn't address the City zoning code  
15 with permitted land uses within the different zoning  
16 districts.

17 So that's why for five years now, I've tried to  
18 gain some insight into what the processes you're going to  
19 be seeking were, one, with the DEP, and then also the  
20 Department of Highways to try to get an understanding if  
21 the road network can handle the proposed development.

22 I understand recently your last e-mail saying  
23 you're not prepared to enter into those agreements and the  
24 next phase of what the Department of Highways is looking

1 for. But on the front end of this is that there's a  
2 request in front of the Planning Commission to change a  
3 large piece of property that's currently designated as  
4 conservation development, and you're asking the City's  
5 Planning Commission to make that change.

6 So what I'm trying to get into their hands is  
7 as much information as possible, not only their hands, but  
8 the public's hands, and then ultimately City Council's  
9 hands so there is no unknown of how we're going to get  
10 from Point A to Point B. I completely understand and  
11 agree, we don't need to know the number of stop signs and  
12 things like that on the site plan.

13 But even seeing the most recent traffic study,  
14 my estimations from Map 10, which was based off of the  
15 preferred development plan, there was a 773,000 square  
16 foot development that was being proposed, and in the  
17 Traffic Impact Study, it's up to 900 and some thousand  
18 square feet.

19 So the Planning Commission has been patiently  
20 waiting since October for information from the DEP and  
21 from the Department of Highways so that we don't have to  
22 drag this process out, but we haven't had any of that  
23 information since then. So now it's all kind of coming in  
24 at once. Now we have a Traffic Impact Study. Now we're

1 hearing from the DEP. So we've finally gotten to a point  
2 where we're getting some of that background information  
3 that this office has been seeking for a number of years,  
4 but the Commission has been asking for since August.  
5 That's the reason.

6 So if a quarrying permit is being requested,  
7 then what's the City zoning code speak to in terms of what  
8 districts it's allowed to operate in, if any?

9 Again, in doing some brief research across the  
10 State trying to determine how community-zoned quarrying  
11 are operating, heavy industry would be one. In some  
12 communities, it's not permitted. So that's another bridge  
13 to cross.

14 So in speaking to some of the concerns that  
15 have been expressed of not having seen this many sheets of  
16 site plans being developed before, again, I think back in  
17 October, the Planning Commission established we just  
18 wanted to know what you want to do, which it was the  
19 preferred development plan. Then at that point, it just  
20 became waiting for traffic information and DEP  
21 information.

22 We did get some feedback on the geotechnical,  
23 which led to some other questions about underground mines.

24 I saw where you have some of the mapped mines

1 underground in some areas but not all. That's why we then  
2 had our engineering private consultant look at the  
3 proposal to see -- again, we know it's preliminary. We  
4 know it's just your preferred development, but is it  
5 realistic?

6 The south boulevard, the north boulevard --  
7 tonight we very quickly moved an entrance on Warden Run  
8 Road dozens or hundreds of feet without really taking into  
9 consideration the terrain. Can you just slide it 50 or 75  
10 feet? Wouldn't that readjust the entire road on the  
11 topography?

12 So, again, the big picture, we want to know  
13 what the development is. I think knowing the number of  
14 access points on the property isn't unquestionable. I  
15 think we are going to hear from the public in the  
16 Greggsville neighborhood and the Woodsdale neighborhood to  
17 say, hey, how is this going to affect me. I don't think  
18 our answer can be just be patient, we'll find out in a few  
19 more months if there's going to be an access road across  
20 from your neighborhood or not.

21 So I think having some key information like  
22 what is the access points going to be onto the proposed  
23 development? The neighbors, are they going to have to  
24 deal with blasting? Are they going to have to deal with

1 large truck traffic for however many years moving the  
2 aggregates off the property?

3           So that's some of the background as to why  
4 we've been waiting on this information to help us make a  
5 decision on whether or not the Comprehensive Plan should  
6 be amended.

7           When you do a Comprehensive Plan amendment,  
8 you're supposed to seek input from State offices. It says  
9 in Section 8A of State code, if you're undertaking a  
10 Comprehensive Plan amendment, you need to get input from  
11 the other State regulatory offices that could be impacted  
12 by it, which are Highways, which are DEP, so that we're  
13 not operating without getting that input from other  
14 entities.

15           Those are some of the staff's comments as far  
16 as why we've been waiting so long for some of this  
17 information. It's to help me formulate a recommendation  
18 to the Commission, who will then make a recommendation to  
19 City Council.

20           Do any of the Commissioners have any questions  
21 specifically for me?

22           That's been my line of thought as to why we've  
23 been requesting and why does it make a difference if it's  
24 just extending a stormwater permit or going the full-blown

1 quarrying permit.

2           Having that information -- like the GC&P  
3 Aggregates, if you're not selling it, why come up with  
4 another entity? I don't know. I'm not a businessman.  
5 I'm not someone who is trying to make that investment.

6           If it was just extending stormwater permits, do  
7 you think it could have just stayed in the name of GC&P  
8 Development? why were deeds created if it has specific  
9 language about make no mistake, the purpose of the  
10 transfer is for marketable sellable materials to an  
11 elevation of 950 feet.

12           Those things to me -- when deeds are recorded  
13 five years ago that say that, and then five years later,  
14 we're still trying to figure out we're getting there, it's  
15 frustrating to me as a staff person, but I can the imagine  
16 volunteer citizens on the Planning Commission who are  
17 trying to make the best decision that they can, and it's  
18 been going on a year process now.

19           MS. HUMWAY-WARMUTH: Planning Administrator  
20 Connelly, what is, in your opinion, a problem with the  
21 fact that if it would be quarrying in regard to planning  
22 and zoning versus what their planned development now is,  
23 now even though the fact is that they would be changing  
24 the Comprehensive Plan one way or the other, but in regard



1 to C2 versus quarrying -- I mean, if they would have to  
2 move to get quarrying -- if they would have to move to get  
3 a quarrying permit, would that not change the entire  
4 complexion of the process?

5 MR. CONNELLY: Yeah. So right now you'll see a  
6 development, particularly a recent site plan where people  
7 came in and wanted to build a two-story building, and they  
8 may have had to do some stormwater management techniques,  
9 but they didn't have to go for a quarrying permit. So to  
10 move a little bit of earth to level out a one-acre lot in  
11 order to put in a building in a parking lot is not the  
12 same process as removing 200 feet of a hilltop over the  
13 course of several years to form a development.

14 The zoning code states that specifically in all  
15 districts, only those uses specifically listed as  
16 permitted, special permit or special uses are not. So if  
17 you look an R1 or C2 and you don't see something like a  
18 quarry operation, then it would be my interpretation that  
19 it's not permitted in that district.

20 If they are going to have to apply for a  
21 business license to operate that in the City, the first  
22 step is the zoning office to determine if that can even  
23 take place there.

24 Again, these were all questions that were asked

1 before we got to this public process. I had been asking  
2 this of the property owner for leading up to the  
3 submission last year to try to determine -- if the DEP is  
4 going to require a quarrying permit, you may want to  
5 exhaust those efforts to see if it's even possible. Or if  
6 the Department of Highways isn't going to be satisfied  
7 with the road infrastructure level of service decline, you  
8 may not even want to get to the City's Planning Commission  
9 because you won't have a driveway permit to get into the  
10 development.

11 There's checks and balances with the local  
12 government and state government on this. That's what  
13 we've been waiting for and trying to get as much  
14 information as possible to formulate a recommendation.

15 But getting back to your questions about --

16 MR. GRAYSON: Can I jump in here because you  
17 packed a lot in there that we would like to comment on.  
18 So would it be all right for me to comment at this point?

19 MR. CONNELLY: I would defer to Mr. Mauck. He  
20 had an order of business that he wanted to follow. I was  
21 just answering a question from Ms. Warmuth.

22 CHAIRPERSON MAUCK: If you're going to comment  
23 on the permits, that's fine.

24 MR. GRAYSON: Yes, but there was a lot of

1 statements that Mr. Connelly made in how he characterized  
2 certain things, and I was hoping that I could make a  
3 comment on a number of his statements.

4 First of all, the Planning Commission has told  
5 us that we are making a change to the Comprehensive Plan,  
6 and, therefore, it requires an amendment. While we've  
7 heard that and we've been responsive to that and tried to  
8 meet your information request in order to accomplish that,  
9 we still did not agree with that determination because,  
10 No. 1, we believe we are Comprehensive Plan-compliant  
11 because we qualify as a special area district, and, No. 2,  
12 we believe that we're Comprehensive Plan-compliant from  
13 the standpoint of -- a mixed-used village development  
14 would be considered a reasonable attempt to meet the  
15 requirement of conservation development in urban areas.

16 If cluster townhomes can meet that requirement  
17 in the suburbs, certainly a mixed-use village in an urban  
18 area has the possibility of meeting that requirement. So  
19 it would have been nice to have a little bit more debate  
20 about that.

21 With respect to the issue of land use and  
22 quarrying, you've heard from DEP that we could pursue this  
23 project in a way that in order to accomplish the temporary  
24 site work -- that's what we're talking about, temporary

1 site work. I don't know what other projects you've ever  
2 said the temporary site work is elevated to a land use.  
3 But in this case, we are talking about the temporary site  
4 work to achieve the future land use of a mixed-use  
5 development.

6 Scott Mandirola has told you that if we were to  
7 spoil all this material off site, we could do this under a  
8 stormwater permit. So then would you describe our project  
9 as having a land use of stormwater while we were in the  
10 temporary phase of getting it to grade?

11 For the same reason, just because DEP has said  
12 that they're going to permit this like a quarry  
13 potentially if we want to sell the material, that's not  
14 its land use. Its land use is a mixed-use village  
15 development, and quarry is just a means -- stormwater  
16 first and then quarry is just a means to accomplish the  
17 temporary site work.

18 I don't know where the conclusion is coming  
19 from that the quarrying activity -- the activity that  
20 occurs under quarrying permitting, which is a temporary  
21 activity to get the site to grade, is somehow deemed a  
22 permanent future land use of this site. It just doesn't  
23 -- for the same reason you wouldn't call a stormwater  
24 permit on the site -- say that the site now has a

1 stormwater land use. It's a temporary activity.

2 MS. HUMWAY-WARMUTH: One quick question.

3 COMMISSIONER WRIGHT: Can I interact something?  
4 Could I interject something as a Planning Commissioner?

5 I do understand the question, and I do  
6 understand that you're approaching this as temporary site  
7 work, and I know that there's a lot of internal questions  
8 about the permitting and about how the process works.

9 However, I, as a Planning Commissioner, in some  
10 sense represent the nuts-and-bolts questions of the  
11 public. So my question is more not so much whether you  
12 want to sell it, whether you want to make it a giant pile,  
13 whatever you want to do with it. Tell us about the  
14 process of doing this. Is it five years of removal of  
15 that overburden? What does that look like? Is that  
16 blasting? Is it trucks? Is it two sessions or two shifts  
17 of stone being removed for 16 hours a day? What does that  
18 process look like? I'm working here on the assumption  
19 that you want a mixed-use village, and in order to do  
20 that, you're going to have to remove this rock and do  
21 something with it.

22 MR. GRAYSON: So we've estimated that it's  
23 going to take about five years to get the site to grade.  
24 Some of that will depend on -- like, for example, if we

1 were to try to go the route of the exemption from the  
2 quarry regulations because it was a public project out  
3 there, if that that public project wasn't prepared to take  
4 100 percent of the material that we could generate, then  
5 it would make it more difficult to finish it in  
6 five years, which is why it might make sense for us to  
7 just go ahead and get the quarry permit because that  
8 allows us to market this to any consumer, and it would get  
9 the material out. It would shorten the period of time  
10 that there would be impacts from the site grading that was  
11 going on.

12 But there's one other thing that I failed to  
13 mention, the most material difference in my mind between  
14 pursuing this under a stormwater permit or pursuing it  
15 under a quarry permit or some combination thereof. If  
16 it's done under a stormwater permit and the material is  
17 just spoiled off site, there's no B&O tax on the sale of  
18 those materials, there's no severance taxes to the State  
19 on the sale of those materials, and the impact is exactly  
20 the same. We still end up with a site that's a 950  
21 elevation, but under one circumstance, the City and the  
22 State get a lot of money in taxes, and under the other  
23 circumstance, they don't.

24 COMMISSIONER WRIGHT: I see what you're saying.

1 what I'm saying is whether you operate under that permit  
2 or under a quarry permit, I think the people that live in  
3 that neighborhood say if you decide that you are going to  
4 get the quarry permit, which is the most expedient way to  
5 remove that overburden, what does that look like in real  
6 life for people who live there? Does it mean 120 trucks a  
7 day from the site out to National Road? I think that's  
8 what citizens are asking us a question about.

9           So I understand the frustration with the  
10 permitting and the question about that, but what I'm  
11 saying is in real life, if you got your quarry permit  
12 tomorrow and you had trucks and you started, is it going  
13 to take you -- if you did it in the most expedient way  
14 that you could, what does that process look like? Are you  
15 blasting it off? How are you taking it off of there, and  
16 how much impact does that have on traffic and the general  
17 community?

18           MR. GRAYSON: So part of the reason why we did  
19 the core samples was to try to determine what the material  
20 was, to characterize the material that's in the hill. So  
21 in the course of doing that, we learned that there's some  
22 pretty hard limestone in the hill. Some of the seams that  
23 we encounter are going to be fairly deep. That's what we  
24 anticipate based on those core samples. So in those

1 areas, we may have to blast to remove that. The rock may  
2 not be rippable. It might be. We will be ripping  
3 whatever rock that we can rip with bulldozers.

4 But to the extent that we have to blast, the  
5 quarry permitting process will -- there's very extensive  
6 submittal requirements for -- whether this is site work  
7 under the storm- -- going down the stormwater path permit  
8 process or whether it's quarry, you're still doing the  
9 same work either way.

10 COMMISSIONER WRIGHT: You're doing the same  
11 work either way, and that is my point. My point is when  
12 you're doing that work under whatever permit you're doing  
13 it, what does it look like in the community?

14 MR. GRAYSON: I'll have to let the engineers  
15 try to speak to this because normally -- getting into the  
16 specifics, like how many trucks per hour and all that kind  
17 of stuff, are the kinds of details that you put to this  
18 during the actual application process. It's a fairly  
19 extensive application, costing hundreds of thousands of  
20 dollars, in order to actually define exactly how it's  
21 going to happen.

22 COMMISSIONER WRIGHT: Can you understand my  
23 concern going forward? Because if somebody is living  
24 along Route 88 and those trucks are going to go by, they



1 are going to want to know that piece of information.

2 MR. GRAYSON: Yes, and they will receive it at  
3 the appropriate time when we submit for a quarry permit,  
4 and the public will have a chance to comment on it.

5 Just because the City comes to the conclusion  
6 that, yes, in fact, this is a special area, it meets the  
7 requirements of significant property, we should use it to  
8 its highest and best use, it seems reasonable to reach for  
9 the mixed-use village development plan because the  
10 information we received so far makes it seem like it's  
11 feasible.

12 But even if the City were to do that, it's not  
13 approved. It still needs site plan approval. It's got to  
14 get a final site plan approval. There is plenty of  
15 opportunity to tweak -- or recreate this in a way that  
16 makes it even closer to approximate what the City believes  
17 is the highest and best use of this piece of property.

18 We've made a concerted effort to try to suggest  
19 something that we think will be far more beneficial to the  
20 City of Wheeling than simply doing a housing subdivision  
21 on this property, because we don't think that that is  
22 consistent with the recommendations that the Comprehensive  
23 Plan made that properties of this kind of significance  
24 should be treated in a separate way, in a special way.

1           MR. CONNELLY: Mr. Grayson, in October you  
2 mentioned, I think, in response to a question: would the  
3 developer consider maybe developing a property more in  
4 line with some other hilltops in the area, like Oakmont  
5 and Barrington and Forest Hills, more in line with the  
6 terrain? Do you absolutely need to go down to 950 or  
7 whatever the elevation was? Could you consider something  
8 else? I think at that time, the pretty straight answer  
9 was, no, our goal is to get a development at 950.

10           So when I look around the area, I don't see any  
11 other developments that have proceeded in that way. It's  
12 completely -- the entire top of the hill to get to a  
13 perfect flat pad.

14           So is it still your intention -- the only  
15 possible development for the special Area Plan for a  
16 mixed-use village or mixed-use development would be one  
17 single flat pad, other than the two down along 88, but  
18 that main pad of a complete level surface?

19           MR. GRAYSON: So, Tom, in order to make a  
20 development of this type succeed, one thing is that it  
21 would be helpful for it to be unique and distinct for the  
22 City of Wheeling. So one way to do that is to provide a  
23 new type of environment that doesn't presently exist in  
24 Wheeling, providing a mix of uses of sufficient size to

1 make it feel like a new place or a new environment which  
2 is what retail developments always do. They need to be of  
3 certain critical mass to be in order to be successful.

4 A lot of times, like in a strictly retail  
5 development, it has to be a certain size just to get the  
6 retailers to commit to it. You have to have certain key  
7 retailers, certain co-retailers, kind of like the way The  
8 Highlands was probably developed.

9 That's not what this is. This is to try to  
10 create an environment that feels entirely unique, new and  
11 different for the City of Wheeling because it's a tightly  
12 woven mix of residential uses, office uses, retail uses,  
13 none of which use type is really very large. If you add  
14 up all retail in this, you probably don't get to something  
15 that's just the size of just Cabela's at The Highlands.  
16 Maybe a little bit larger than that, but the scale of it  
17 is dramatically smaller in terms of the retail. The  
18 grocery store is only 30-some thousand square feet, I  
19 think. The typical Kroger's are probably 80 or 90, and  
20 some Wegman's are 120.

21 This is not a simple regional development. So  
22 when you add all the components to the development, you do  
23 get to something that is fairly significant in size.  
24 However, each individual component is not that big.

1                   so for the commercial portions of this project,  
2 Tom, they must be on a level platform or on a level  
3 podium. You can't successfully market the space to anyone  
4 unless you give them a level podium for consumption.

5                   Part of the reason we want to create this level  
6 podium for this environment is because we think by doing  
7 so, it will be unique and different for a market where  
8 most of the things are on slopes.

9                   CHAIRPERSON MAUCK: Thank you.

10                   We need to let Deputy Secretary Mandirola go  
11 home.

12                   Do you have a question, Wendy, of Deputy  
13 Secretary Mandirola?

14                   COMMISSIONER SCATTERDAY: Yeah. I neglected to  
15 ask the deputy secretary: what are the criteria or how do  
16 you define when a public hearing is required for either  
17 the stormwater permit process or the quarry process? I  
18 know that that's an advanced step beyond just regular  
19 public comment, but a public hearing can be effective for  
20 either of those processes or both. So help us understand  
21 how that threshold is crossed for that requirement.

22                   MR. MANDIROLA: Sure. Public comment for a  
23 stormwater permit is over 100 acres for over a year of  
24 construction. All quarry permits have a public comment

1 period. The notification for public comment period for a  
2 stormwater permit is one-time advertisement in the local  
3 paper that would then start the 30-day comment period. At  
4 the end of that 30 days, the period closes, and you  
5 respond to comments.

6 If there is significant interest -- is the way  
7 the wording is in the regulations on a stormwater permit  
8 -- for a hearing, then we will hold a hearing in the area.

9 Now, for a quarry permit, it's a little bit  
10 different. It's 30-day notice. All quarry permits go to  
11 public notice. It's four advertisements, one each week,  
12 in the local newspaper. The first advertisement is the  
13 one that starts the public notice period of 30 days. If a  
14 request for an informal conference or hearing is asked for  
15 during a quarry permit, then there will be a hearing held.

16 COMMISSIONER SCATTERDAY: who makes that  
17 request, sir?

18 MR. MANDIROLA: The commenters. Any commenter.

19 COMMISSIONER SCATTERDAY: Okay. Thank you.

20 MR. MANDIROLA: It doesn't have to be -- they  
21 have to have standing obviously for comment. But if a  
22 request is made for a hearing for a quarry permit -- I  
23 specifically asked that question today of our permitting  
24 staff on that, particularly for the quarry permit.

1 COMMISSIONER SCATTERDAY: Thank you.

2 MR. MANDIROLA: That was their answer.

3 CHAIRPERSON MAUCK: Rosemary, do you have a  
4 question of Deputy Secretary Mandirola?

5 MS. HUMWAY-WARMUTH: I did. I was going on a  
6 low batteries. It's been a long meeting.

7 For purposes of -- I'm sorry. Can you hear me?

8 CHAIRPERSON MAUCK: Yes.

9 MS. HUMWAY-WARMUTH: Great.

10 For purposes of just -- and this was kind of  
11 for Mr. Grayson as well -- because -- for purposes of the  
12 code, it appears that quarrying under definitions means  
13 any -- any breaking of the ground surface in order to  
14 facilitate extraction of minerals. As well, the DEP has  
15 some discretion here to review information that's been  
16 provided. I understand that if there would be a quarrying  
17 permit, that we would have an opportunity to discuss that.

18 Also the quarrying that Mr. Grayson  
19 mentioned --

20 I'm sorry. I lost my place for a moment  
21 because I had to go and get things pumped up.

22 But basically if it's five to 10 years -- I  
23 think Mr. Grayson said it may be five to 10 years to get  
24 the site to be developed for purposes of what they are

1 placing in front of the Commission. Is that not  
2 quarrying?

3 MR. GRAYSON: I just stated in the meeting,  
4 five years.

5 MS. HUMWAY-WARMUTH: So five years of  
6 quarrying?

7 MR. GRAYSON: No, not five years of quarrying.  
8 Five years of site work, and DEP will make a determination  
9 -- as far as the disposition of the material off site, DEP  
10 will make a disposition as far as how they characterize  
11 from a permit standpoint that temporary site work, whether  
12 they are going to cause us to get a stormwater permit or a  
13 quarry permit.

14 Obviously we, as the applicant, have a  
15 significant role in that process too because we get to  
16 choose whether or not we attempt to try to sell that  
17 material or whether we can just spoil it off site, in  
18 which case it would just stay a stormwater permit for this  
19 temporary site work.

20 MS. HUMWAY-WARMUTH: So in the deed that was  
21 filed within Ohio County where GC&P Development, LLC,  
22 Limited Liability Company, and GACS, LLP, stated upon the  
23 very first page in the second paragraph that all  
24 limestone, sandstone, which I already reiterated the first

1 part of this --

2 MR. GRAYSON: Yeah.

3 MS. HUMWAY-WARMUTH: So the intention there  
4 from the deed is to extract those commercially sellable  
5 materials is pretty much paramount, correct?

6 MR. GRAYSON: No. The fact that we created  
7 those entities is exactly consistent with the very first  
8 communication we ever sent to the City after acquiring  
9 this property. When Andy McKenzie was the mayor and Bob  
10 Herron was the city manager and Tom Connelly was in the  
11 meeting and we laid out the process for which we would  
12 like to try to develop this property, one of the  
13 strategies was we would like to try to attempt to use the  
14 sale of the material that would be exported from the site  
15 as a way to try to facilitate paying the cost of  
16 developing the site. We were very clear. That has always  
17 been part of our intent.

18 Now, we learned over the time that there were  
19 several ways that you could accomplish that.

20 MS. HUMWAY-WARMUTH: I'm going to have to stop  
21 right here because I know -- Mr. Connelly is on the phone  
22 conversation now. I know that -- and I'll speak as an  
23 agent of the City -- that all of those folks, the city  
24 manager, the mayor, and Mr. Connelly said you will have to



1 go through the appropriate Planning Commission and zoning  
2 process. Is that not true?

3 MR. CONNELLY: Actually, I don't think I was in  
4 any meeting where Mayor McKenzie and Mr. Herron were  
5 talking about financing projects at all. That may have  
6 been years ago, but I don't recall being in that meeting.

7 MS. HUMWAY-WARMUTH: Mr. Connelly, I'm not  
8 going to get into a cross-examination here, but I know  
9 that the concerns of the City was -- the City  
10 administrators and governing body will talk with about  
11 anybody about development. However, I know that they  
12 would have still told you -- and I know that they tell you  
13 -- you still had to go through the zoning process. We  
14 understand what your plans are. We understand what your  
15 plans are, but you still have to go through the  
16 appropriate process. That was what was communicated to  
17 you, correct?

18 MR. GRAYSON: Absolutely. We've never -- we  
19 have never thought that we didn't have to go through a  
20 zoning and land development process for the purpose of  
21 building a development on our site in the future. But so  
22 far we haven't really even begun that, because all we've  
23 really done on site is try to do the testing that a  
24 prudent person would do in order to evaluate a site to see

1 whether or not what you hope to do with the site can be  
2 actually accomplished in the future.

3           Knowing that it was our intent to potentially  
4 sell this material as a way of funding site work, one of  
5 the things that we did in order to prepare for that was to  
6 set up entities in order to create the possibility so that  
7 we would be prepared for that. Because in addition to the  
8 exemption, there is also the possibility -- a lot of  
9 developers of sites in the state have been able to use  
10 their site, the materials from one site as a borrow site  
11 for another site that they own.

12           so there were potentially customers who wanted  
13 to invest in the materials from this site because they  
14 were owners where they could use those materials in other  
15 sites. so there was the possibility to also use it at the  
16 borrow site.

17           MS. HUMWAY-WARMUTH: I understand that.

18           MR. GRAYSON: They keep all of these potential  
19 ways to proceed in play so that hopefully -- because it's  
20 not easy to develop. It's is a very difficult thing to  
21 do. It costs a lot of money. You have to spend a lot of  
22 money. We're working hard to try to make something happen  
23 here. So that's why those entities were created, because  
24 they fit with what we told the City at the outset, which

1 is we would like to receive some value off this material  
2 to pay for site work, and by the way, the City and State  
3 will profit handsomely from selling it.

4 MS. HUMWAY-WARMUTH: I understand. I  
5 understand.

6 COMMISSIONER MONROE: Mr. Chairman?  
7 Mr. Chairman, I really feel like we're chasing our tail  
8 here now. I've gone around on this quite enough.  
9 Speaking as a moderately intelligent person, I get both  
10 perspectives here. I understand Rose needs to deal with  
11 legal -- I get that. She has a responsibility to do that.  
12 Quite frankly, I think we've heard this argument enough -0  
13 or this discussion enough, and I think it's time to move  
14 on.

15 CHAIRPERSON MAUCK: Thank you. I agree.

16 COMMISSIONER MONROE: with that in mind,  
17 Mr. Chairman, if you're going to let Mr. Mandirola go, I'm  
18 going to take a break, and I would recommend we take a  
19 break. we've been two hours now. Can we take a  
20 five-minute recess?

21 CHAIRPERSON MAUCK: Deputy Secretary Mandirola,  
22 can you hear me?

23 MR. MANDIROLA: Yes, I can.

24 CHAIRPERSON MAUCK: we thank you for your time

1 and appreciate you being with us and hope you have a good  
2 evening and a great day tomorrow.

3 MR. MANDIROLA: Thank you very much.

4 If you have any further questions, Rose has my  
5 contact information. Feel free to contact me. E-mail me.  
6 I'll try to help anywhere I can to answer any of your  
7 questions.

8 MS. HUMWAY-WARMUTH: Thank you, Deputy.

9 CHAIRPERSON MAUCK: Howard, we're on a  
10 five-minute break.

11 (Whereupon, a short break was taken.)

12 CHAIRPERSON MAUCK: I'm going to shift gears  
13 here a little bit. We have all looked at the Larson  
14 Design Group and the Thrasher Group geotechnical studies,  
15 and we're scratching our heads. So Ben Dusina has been  
16 sitting here patiently waiting to speak us to, and he's  
17 going to give us, in laymen's terms, what should we be  
18 looking for in a geotechnical study, and then we'll go to  
19 the Traffic Impact Study.

20 So, Mr. Dusina, you're on.

21 MR. DUSINA: Thanks.

22 I was asked to review the geotechnical report  
23 from Larson Design and Thrasher. I reviewed an e-mail  
24 from Mr. Phillipson on March 5th and Stormwater Maps 60,

1 61 and 80. As part of that, we kind of looked at the site  
2 in general and what's going on.

3 In general, there's no geotechnical parameters.  
4 There were the three core holes that were done to kind of  
5 describe the rock types. So we don't really know the  
6 in-situ or in-place strength of those materials. So  
7 creating -- I think Russell mentioned 175- or 200-foot  
8 high highwall at a half-to-one slope needs to be looked at  
9 pretty closely on a final geotech. I know the Larson  
10 Design Group report did mention having to perform a final.  
11 I think that was in the plan.

12 so the cut slope is a concern, and the fill  
13 slopes -- there's a lot of colluvial material, which is  
14 soil that comes from the top of the hill and finds its way  
15 down towards the bottom of the hill. Placing additional  
16 fill on that type of material can make it unstable. So  
17 those are two things that would have to be included in a  
18 final.

19 But even before that, it could be a preliminary  
20 geotechnical report. What's been done so far is core  
21 holes to identify rock types, not strength parameters of  
22 those.

23 CHAIRPERSON MAUCK: I'm going to ask my only  
24 question tonight. That 250-foot sheer south wall, how

1 stable is it? Can you answer that question?

2 MR. DUSINA: I would say, in general, a  
3 200-foot high rock cut is not -- actually for highways,  
4 West Virginia DEP has requirements for adding benches to  
5 that to help rockfalls. There's a lot of different  
6 bedrock types there that can make them unstable. If  
7 you've got a weak rock underneath a strong rock, it can  
8 erode away, and you get rockfalls. So without benches and  
9 going up half-to-one, it might not be possible, but  
10 there's no geotechnical parameters that have been  
11 evaluated or provided to me to look at so far.

12 CHAIRPERSON MAUCK: Commissioners, questions of  
13 Mr. Dusina?

14 None?

15 Wendy? Yes, Wendy.

16 COMMISSIONER SCATTERDAY: Yes. Thank you.

17 If you could help just sort of build out a  
18 little bit in characterizing what you have been able to  
19 glean from the information so far, but then also added to  
20 what we know about this area, the general geology of our  
21 region, and as you are more localized towards this  
22 specific location, can you help characterize in kind of  
23 general layperson terms what the earth and soil and hills  
24 are like in the wheeling area in this particular

1 neighborhood, but then also as that relates regionally,  
2 just to kind of give us a bigger idea of lay of the land,  
3 if you will?

4 Do you understand my question?

5 MR. DUSINA: There's a thin layer overburden,  
6 so soil over top of the bedrock. That was kind of  
7 identified in the core holes. There was one that had a  
8 little bit thicker, maybe 15 feet of soil or so. For this  
9 type of development, they would clear the soil off the top  
10 and then start excavating the bedrock, which consists --  
11 it's a whole conglomerate of different types. We've got  
12 limestones, sandstones, siltstone, shale, claystone, and  
13 coal. They range in strength and durability. Some are  
14 allowed to be used in highway construction and some are  
15 not. They can break down over time. They are open  
16 cut-faced. Some types of shales and claystones and coals  
17 will weather quicker and can become unstable. There were  
18 layers that were encountered, so it makes a rock cut slope  
19 difficult.

20 COMMISSIONER SCATTERDAY: So generally, though,  
21 in this area, we all experience driving on highways,  
22 driving on state routes. We see those cuts that have  
23 happened over time. We see the water that seeps out of  
24 the rock faces and then freezes in the wintertime, so it's

1 more obvious.

2 So if you can just help us understand the  
3 context of we're here within, our geology of this place  
4 and of our area, as compared to other places in the  
5 country, other geology regions and things like that. Help  
6 us understand sort of what the earth is like here.

7 In general, I don't want to say stability, in  
8 specific, regarding this site, but the types of rock, the  
9 types of material that are in our region have a lot of  
10 history of slippage. A cut happens because of a road or  
11 something or other, and years or some period of time goes  
12 by that you have to go back. For instance, on Route 7, as  
13 you go towards Brilliant, Ohio, they've had to mitigate in  
14 a very significant way changes that have happened over  
15 time.

16 I guess my question is sort of a bigger -- like  
17 help us understand the geology of our area in terms of  
18 when you do developments like this, then how does our area  
19 react because of our geology to an intervention such as  
20 what's being proposed?

21 MR. DUSINA: Yeah. It's a pretty typical  
22 Appalachian geologic setting. You've got many different  
23 formations and types, and the coal is intermixed within  
24 that. You've the coal seam that's been mined. So there's



1 rock cut slopes that could be unstable and fill slopes  
2 that could be unstable, and you've got mines. Some of  
3 those mines could produce and some of those coal seams  
4 could produce acidic mine drainage. So that's something  
5 that has to be looked at.

6 In general, overall the rock types we have in  
7 this region are weaker rocks, but that's why the  
8 geotechnical engineer has to get involved so we can core  
9 those rocks, perform strength testing on them and  
10 durability testing on them so we can design rock cut  
11 slopes. It can be done. There's not enough information  
12 right now to say what that rock slope it going to look  
13 like.

14 You can put fill in these colluvial soils. You  
15 just have to do a slope stability analysis, and a  
16 site-specific one. You can't just do it regionally. I'm  
17 sure if the development moves forward, they would have to  
18 do something like that.

19 COMMISSIONER SCATTERDAY: Can you characterize  
20 the percentage of area or material that would be  
21 associated with this location of the colluvial material?  
22 Do you have any kind of sense of 50 percent, 25 percent,  
23 80 percent of that kind of material is likely -- is  
24 actually present because you saw it, or knowing what you

1 know about the general geological characteristics of this  
2 area, is there anything that you can extrapolate about  
3 that kind of material and its pervasiveness?

4 MR. DUSINA: Yes. On steep slopes, the  
5 weathering of the upper material comes down the slope. It  
6 doesn't have a lot of pressure to hold it in place. It's  
7 towards the bottom of the hillsides there. There's been  
8 no borings in that area, so I can't say how thick it is,  
9 but typically it's 10 to 20 feet thick.

10 MR. DAVID HOOPER: Hello. This is Dave Hooper  
11 of Larson Design Group, and I prepared the geotech report.

12 I certainly identified the colluvial soils you  
13 referred to. You mentioned that you could fill colluvial  
14 soils if done properly. More than likely those materials  
15 are going to be removed and addressed in a limited -- very  
16 limited area where there would have to be some access road  
17 construction on. It's a very small portion of the  
18 project.

19 The majority of the project is cut in rock,  
20 rock that we understand very well from the borings that  
21 we've done. We have a good stratigraphy of the site with  
22 the limestone and very capable rocks.

23 I don't dispute that there is a variability in  
24 rock types and different materials that can impact slope

1 stability in a rock cut, but we also have some very good  
2 rocks. I don't want to -- I hesitate to paint this as a  
3 picture that we have no idea what we're getting into. We  
4 have a very good idea. The recommended slopes are very  
5 consistent with the geology of this area. I've spent a  
6 lot of time working on these doing -- in this area working  
7 with this type of rock and this type of topography.

8 CHAIRPERSON MAUCK: Would you state your name  
9 for the record?

10 MR. DAVID HOOPER: Sure. My name is David  
11 Hooper. I'm the senior technical manager for the  
12 Morgantown office of Larson Design Group, and I prepared  
13 the geotechnical report that was submitted.

14 CHAIRPERSON MAUCK: Thank you.

15 Further questions, Commissioners?

16 COMMISSIONER SCHESSLER: I have a question.

17 All right. You said that you did a lot of  
18 geotechnical investigation. We've seen three borings.  
19 Are you referring to something else?

20 MR. DAVID HOOPER: I've done a lot in my  
21 career. I'm very familiar with the area. I've worked in  
22 the Wheeling area. I worked all through the Allegheny  
23 River basin. I'm familiar with the types of slides that  
24 you're referring to in Brilliant along Route 7. I've

1 designed repairs in those areas too. I'm familiar with  
2 this type of work.

3 COMMISSIONER SCHESSLER: I just wanted to be  
4 clear because three is pretty insignificant for the size  
5 of this project. I just wanted to make sure that you  
6 weren't talking about some other studies that we haven't  
7 received.

8 CHAIRPERSON MAUCK: Any other questions?

9 COMMISSIONER SCHWARZ: Yeah. I do have a  
10 question for Ben regarding acid mine drainage. I know  
11 there's -- you can see, going along the stream bed,  
12 there's a place or two where there's some orange discharge  
13 coming out of hillside. In your opinion, is there any  
14 chance that, with the excavation that's going to be done  
15 here, that could make that situation worse or make more  
16 places where there's drainage coming out of hillside or  
17 increase the amount?

18 Then Part 2 of the question is: Are there  
19 effective ways of dealing with that from an engineering  
20 standpoint?

21 MR. DUSINA: Yes. Acid mine drainage is found  
22 and it's pointed out in the Larson Design Group that they  
23 recommended doing some testing to see if the orange water  
24 is acid mine drainage. If you open up a development and

1 create more, it needs to be dealt with on the site so it  
2 doesn't -- so you're not taking the acid mine drainage  
3 from one site to the other. Yes, it would need to be  
4 dealt with during development.

5 COMMISSIONER SCHWARZ: And there are effective  
6 ways of dealing with those things, I'm assuming; is that  
7 correct?

8 MR. DUSINA: Yes. Yeah, long-term effective.

9 MR. DAVID HOOPER: By doing that, you would  
10 improve the situation because you wouldn't have seep  
11 coming out of the hill and just going into the creek. We  
12 would be able to address it and improve the situation and  
13 improve the project.

14 CHAIRPERSON MAUCK: Mr. Dusina, you recommended  
15 many seismograph -- seismology chart tests as they are  
16 doing this construction at this site?

17 MR. DUSINA: Yes.

18 CHAIRPERSON MAUCK: How far would a charge -- I  
19 don't know anything about sizes of charge. How far do  
20 these ridges run off of the site that could be impacted by  
21 a charge on site?

22 MR. DUSINA: Yeah. It can go thousands of  
23 feet. West Virginia requires peak particle velocity  
24 measurements be taken, and they have three categories: 0

1 to 300 feet within the blast -- let me preface this by  
2 saying it's highly dependent on the side of the charge.  
3 If you do a little one, it's not going to be a big impact.  
4 From 0 to 300, 301 to 5,000 feet, and over 5,000 feet away  
5 are the three categories. we would recommend adding  
6 seismograph during blasting so you can measure what that  
7 is.

8 CHAIRPERSON MAUCK: How much would this  
9 blasting -- and I'm sure there's going to be a lot of it  
10 -- up and down the hill carrying stuff on off and on site,  
11 how is that going to impact the particle acceleration of  
12 that sheer mass of 250 straight-up feet of that rock on  
13 the south wall?

14 MR. DUSINA: That would have engineered by a  
15 blasting engineer. They do this all the time. It would  
16 have to be very well thought out and approved before they  
17 would start.

18 CHAIRPERSON MAUCK: Is there a test to measure  
19 what size charge you should use?

20 MR. DUSINA: I'm not a blasting engineer, but,  
21 yeah, depending on the rock strength and whether -- if  
22 you're doing a mountaintop removal for a quarry, you want  
23 to blast it up into smaller pieces so you don't have to  
24 crush it later. If you're doing a highway cut, you want

1 to put the charges so you don't blow off the rock face and  
2 that sort of thing so it makes it stable.

3 CHAIRPERSON MAUCK: Okay.

4 MR. ASSARO: This is Zach Assaro with Ascent  
5 Consulting & Engineering.

6 I just want all parties to be crystal clear  
7 that we are talking about three holes. We keep talking  
8 about these three holes. These three holes, guys, were  
9 done just for an exploration in a very preliminary stage.  
10 We understand there's extensive, extensive, extensive  
11 geotech that has to happen for these slopes. All of these  
12 slopes are assumed right now.

13 In my career, in Mike's career, we've done lot  
14 of these sites. In this region, we've done a lot of  
15 sites. The half-to-ones is not a bad assumption to make.

16 100 percent, I agree with everything that Ben  
17 has said, guys, but at the same time, I think we need to  
18 be clear that we know we got to go 30, 40, 50 holes in the  
19 ground to identify these slopes for cut fill,  
20 recommendations. Geotech is going to be highly involved.  
21 We're going to have benches. We're going to have toe  
22 keys. That is a whole different level of detail where we  
23 can't possibly -- possibly ask these guys to go spend  
24 hundreds of thousands of dollars up-front to answer all

1 these questions. This is a very preliminary stage where I  
2 think it has to be assumed -- and any job that I've done  
3 -- and, yes, they have done quarries all over the State  
4 that we've been a part of. The first step is really  
5 identifying the end use.

6 I just the whole group to be crystal clear that  
7 the design team does understand all the concerns with the  
8 slopes. I want to be crystal clear that we understand  
9 that, as Ben just said, there is a lot of blasting designs  
10 that have to be done. You get a blasting engineer  
11 involved. That's part of the quarry permit stage, guys.  
12 If we get in there and we realize that we hit hard stuff  
13 that we cannot rip with a dozer or a D10 or a D11 and a  
14 blasting has to be done, you have to do blasting surveys.  
15 You have to do blasting plans. You have to submit all  
16 that to the DEP. The DEP has to approve it. There's a  
17 whole other list of stuff -- there's checks and balances  
18 for all that.

19 The biggest thing that I want to talk about is  
20 the south side. That south side is going to have a  
21 straight wall all the way facing north. If anything,  
22 we're going to protect these south side residents.

23 They can develop these blasts to cut however  
24 they want. Yes, you do get one once in a while, but for



1 the most part, these are very controlled blasts. They do  
2 blasts in the middle of metropolitan areas. They do  
3 blasts on the side of highways, and they can fly that rock  
4 basically where they want. Yeah, you're going to have  
5 some particle, but for the most part, they can control  
6 those. That's all part of that quarry stage.

7 I just want that whole group to be clear to not  
8 think that these developers are popping three holes in the  
9 ground and expecting to design this entire mixed-use  
10 village, because that's not what we're doing.

11 CHAIRPERSON MAUCK: Thank you.

12 Other questions?

13 COMMISSIONER MONROE: Yes.

14 Mr. Dusina, keeping in mind what you just said  
15 -- and I do completely understand that -- you yourself  
16 said there's some additional work that you know would have  
17 done at some point. My question is: Do we have enough  
18 information at this point to make an assumption the  
19 project is doable?

20 MR. DUSINA: They have used standard cut slopes  
21 and fill slopes which is, I think, appropriate at this  
22 point.

23 One question would be mine subsidence, which  
24 they have not really looked into with that Pittsburgh coal

1 seam below the hillside.

2 COMMISSIONER MONROE: I mean, I'm understanding  
3 and we've had the conversation in the previous segment  
4 this evening, that this is not the complete and  
5 comprehensive all-done plan, that there's work to be done.  
6 I'm glad you said that. I'm just trying to figure out,  
7 based on the -- you suggested in this report that there  
8 are a number of different things that have to be done, and  
9 I'm just wondering if those things that are done later,  
10 they are fine, or do they need to be done now so we have a  
11 better feeling for the viability of the project?

12 MR. DUSINA: The final design --

13 MR. DAVID HOOPER: I would like to respond on  
14 the mine subsidence work that's been done so far.

15 First of all, I would like to give you a little  
16 bit of my credentials. I worked for the West Virginia  
17 brim as a mine subsidence consultant. I look at mine  
18 subsidence events quite frequently.

19 The mapping that is available is very clear.  
20 All the mapping has been verified by those three borings.  
21 Even though the borings don't necessarily go to the mine,  
22 they do verify what we have for the stratigraphy here.

23 we also have some limited mine coal maps. All  
24 the public maps are not available for the entire site, but

1 they are maps for part of the site. We have an age for  
2 the site.

3 We have a very good understanding of how that  
4 mining was done and what the potential for subsidence is  
5 on this site. The potential, when you have over 190 feet  
6 of roof rock over the mine, is very slight. It's all  
7 within very -- we have no problem with making  
8 recommendations to move forward with a high probability of  
9 success with this project.

10 CHAIRPERSON MAUCK: Thank you.

11 COMMISSIONER MONROE: I would like to go back  
12 to Mr. Dusina's response to my question. I gather that  
13 was partly it.

14 Indeed do we have enough information to make a  
15 reasonable assumption the project is viable in your  
16 opinion based on the research that you have done?

17 MR. DUSINA: I think there should be a  
18 preliminary geotech report where the rock cut slopes are  
19 looked at a little bit better. I saw a new map today that  
20 shows what looks like a box cut coming on the south side  
21 there. So it's not unreasonable to have a preliminary  
22 geotechnical investigation done. That would be additional  
23 borings looked at on the geotechnical side, not just the  
24 aggregate side, which is what the core holes were done.

1 COMMISSIONER MONROE: Thank you.

2 CHAIRPERSON MAUCK: Are we done with  
3 Mr. Dusina?

4 MR. MICHAEL HOOPER: If I could just finalize  
5 -- if I could just summarize a couple of things?

6 CHAIRPERSON MAUCK: Wait a minute. Let's go to  
7 Wendy first.

8 COMMISSIONER SCATTERDAY: Thank you.

9 Mr. Dusina, could you talk more about the  
10 investigatory, preliminary or otherwise for making a  
11 determination about the mine subsidence probabilities and  
12 what investigation type of activities would need to be  
13 done to get a better handle on that?

14 Also, some of the mapping, in particular,  
15 regarding the main entry shows a crossing over and an  
16 actual breaching of the existing mine elevations because  
17 the cut at the main entry is at that even lower elevation.  
18 So your report talks a little bit about the unknowns  
19 regarding water that has been retained below grade is and  
20 is an unknown right now. If you can just dive in  
21 regarding just those issues all together.

22 MR. DUSINA: Specifically below the bottom of  
23 the three cores and into the mine, that roof rock that was  
24 referred to would need to be looked at to see if that's

1 what actually is there versus what is generally there in  
2 the region.

3 COMMISSIONER SCATTERDAY: Then in other  
4 projects that you have had familiarity with, when an  
5 activity such as crossing over into an existing mine area  
6 is entertained, what exactly -- what has your experience  
7 been in other situations like that? Again, I'm not asking  
8 you about this site. I'm asking you to help us understand  
9 in your experience when you've had other similar  
10 situations, what has come to be when you've needed to  
11 either mitigate or assess or investigate or actually move  
12 forward with removing so much material that you are  
13 breaching into an existing mine location.

14 MR. DUSINA: Yeah. It's done quite often.  
15 When it happens, there's certain mitigation techniques  
16 that are done. If it's acid mine drainage, you have to  
17 treat it and get that acidity out of it. Sometimes it  
18 could be done with limestone-lined ditches. If you cross  
19 over an open mine shaft or opening, then you can back-stow  
20 it. Roadway cuts do it all the time. It's nothing that's  
21 not been done. It can be accomplished. It's been done  
22 quite often.

23 COMMISSIONER SCATTERDAY: You made the comment  
24 about doing -- that it was a reasonable suggestion that a

1 preliminary geotech would be performed regarding the rock  
2 cut slopes and additional borings related to that. So  
3 what would be sort of the to-do list regarding the mine  
4 subsidence investigation? what action steps would you  
5 recommend for better understanding the reality of the  
6 situation?

7 MR. DUSINA: Extend the core hole between the  
8 bottom of the existing core holes and through the mine to  
9 see what's there and do a subsidence investigation.

10 COMMISSIONER SCATTERDAY: So that would be a  
11 different discipline separate but related to the rock cut  
12 slopes?

13 MR. DUSINA: Yes, similar. A mining engineer  
14 would look at mine subsidence. A geological engineer,  
15 geotechnical engineer can look at rock cut slopes. They  
16 do all the time. It could be one in the same.

17 COMMISSIONER SCATTERDAY: Thank you.

18 MR. DAVID HOOPER: It is our opinion that it  
19 was 190 feet of roof rock over the top of the mine that we  
20 do not need to go back and drill those additional holes at  
21 this point, and probably never. There's fairly  
22 substantial roof rock. We understand mining in this area.  
23 We understand its age. All that is fairly well  
24 documented.

1           As far as the rock cuts go, again, at this  
2 early stage in the process, not knowing exactly how the  
3 rock cut slopes are going to be, we feel it's premature to  
4 proceed with exploration. However, it will be required in  
5 the future.

6           CHAIRPERSON MAUCK: Rosemary, is this about the  
7 geotech study?

8           I can't hear you. You're on mute. You're  
9 still on mute.

10          COMMISSIONER SCATTERDAY: I did have an extra  
11 question while she's figuring that out.

12          Ben, in your experience with site removal of  
13 9 million cubic yards of material in such a manner as  
14 what's being proposed here, what does your experience tell  
15 you about the likelihood that blasting will be needed?

16          MR. DUSINA: with the hard limestones that were  
17 identified, I would say blasting will be required in part.

18          COMMISSIONER SCATTERDAY: Thank you.

19          Rosemary, you're still on mute.

20          CHAIRPERSON MAUCK: You're on mute.

21          I'll cut him off.

22          Are we done? Good.

23          Mr. Dusina, we thank you for being with us this  
24 evening, and I appreciate your input.

1 COMMISSIONER SCATTERDAY: Thank you.

2 MS. HUMWAY-WARMUTH: Now I'm unmuted.

3 MR. DUSINA: Thank you, everyone.

4 CHAIRPERSON MAUCK: What?

5 MS. HUMWAY-WARMUTH: I'm unmuted now.

6 The one question I had was: So you mentioned  
7 about the core samples. The ultimate desire of the  
8 development is to take it down, I think, 160 feet or so.  
9 But basically, in your opinion, should we have that  
10 core -- that degree prior to at least (audio  
11 distortion) --

12 CHAIRPERSON MAUCK: Do you understand the  
13 question?

14 MR. DUSINA: Is the question should we have  
15 additional core samples now?

16 MS. HUMWAY-WARMUTH: Yeah, because I believe  
17 the core samples only went down 30 to 40 feet until they  
18 hit limestone, versus what a core sample would go down to  
19 doing the rock cliff and the development.

20 MR. DUSINA: They went down to below elevation,  
21 950. So it generally encountered what's going to be above  
22 to be removed at the building pad site. Additional cores  
23 would have to be done on a final investigation. My  
24 suggestion is to do a few additional preliminary cores to



1 evaluate if the 200-foot high highwall is reasonable. If  
2 not, maybe move where the access road would be.

3 MS. HUMWAY-WARMUTH: That could be something  
4 that the City could request to -- well, at least for the  
5 developer to provide for us and for you to reevaluate?

6 MR. DAVID HOOPER: Can you please expand as to  
7 what the paths of those additional cores would be? We  
8 have fairly good correlation between the three holes we  
9 drilled, and the zone of concern is evaluated with those  
10 three holes. So I'm not sure I understand why we need to  
11 do those. Can you elaborate on that?

12 MR. DUSINA: Yeah. There are certain site  
13 durability testing to help define the angle of the slope  
14 that should be used in the rock cut slope. I didn't see  
15 that being done. That would be one suggestion, which is  
16 typically done in rock cut slope design, strength testing  
17 of that rock.

18 MR. DAVID HOOPER: We do have slate durability  
19 testing. It might not have been in my report.

20 CHAIRPERSON MAUCK: Mr. Dusina, thank you.  
21 Have a good evening.

22 MS. HUMWAY-WARMUTH: Thank you.

23 CHAIRPERSON MAUCK: Moving on, Mike Hooper,  
24 we're ready for the traffic impact studies, a brief

1 presentation, and then questions.

2 MR. MICHAEL HOOPER: A brief presentation on  
3 800 and some pages. We'll do our best, sir.

4 CHAIRPERSON MAUCK: Very brief.

5 State your name and address for the record,  
6 please.

7 MS. SOUTHERN: Hi. My name is Melissa  
8 Southern. I'm a traffic analyst with Stahl Sheaffer  
9 Engineering, and I analyzed the study that was presented  
10 to you.

11 CHAIRPERSON MAUCK: Thank you.

12 MS. SOUTHERN: So we were retained by GC&P to  
13 perform the traffic study for the proposed  
14 community-scaled mixed-used village development.

15 The purpose of the traffic study was to  
16 identify potential traffic impacts resulting from the full  
17 build-out of proposed community-scaled mixed-use village  
18 development.

19 The typical process for the traffic study  
20 starts with the identification of the study area, followed  
21 by data selection analyses and summarized in a report.

22 A traffic study scope was based on discussions  
23 with representatives from West Virginia Department of  
24 Highways, Stahl Sheaffer, and GC&P.

1           The scope of study that was outlined from this,  
2 discussed and agreed upon included the intersections  
3 selected for study, presented in the traffic study, the  
4 time frame, the AM peak hour, PM peak hour, and Saturday  
5 peak hour, and the analysis condition which included  
6 existing condition, future condition without the  
7 development and with the development to determine the  
8 potential impact of the development.

9           I do have the slides. If you guys would like  
10 to refer to Figure 1 in the traffic study. I can go  
11 through the intersections selected and study.

12           Is it shared? One second, please.

13           CHAIRPERSON MAUCK: Can you put that up for us,  
14 Tom?

15           MS. SOUTHERN: It's coming.

16           CHAIRPERSON MAUCK: There you go. Can you put  
17 that slide up there?

18           MS. SOUTHERN: So in this slide, it shows the  
19 study area that was selected based on discussions with  
20 West Virginia Department of Highways. The blue dots  
21 reference the existing study intersections. The yellow  
22 dots represent the proposed approximate location of the  
23 access driveways that were studied. There were a total of  
24 10 existing intersections. Six are currently controlled

1 by traffic signals.

2 There were two locations that were unique in  
3 this corridor, the intersections of Mount DeChantal and  
4 Route 40, and Mount DeChantal and I-70. They operate  
5 under one traffic controller due to the close proximity of  
6 those intersections. So one traffic signal controls  
7 operation at that location.

8 This is also true at Route 40 and Park Road and  
9 Route 40 with -- the name alluded me -- Leatherwood Lane.  
10 They also are two-signalized intersections that operate  
11 from one traffic controller that are in close proximity.

12 The time of day selected for this study, like I  
13 said, are a typical Friday AM, PM, which is morning,  
14 afternoon, and Saturday. Those are requirements for West  
15 Virginia Department of Highway guidelines.

16 Our data collection occurred -- the traffic  
17 counts occurred on Friday, January 24th, and Saturday,  
18 January 25th. This was during a typical Friday and  
19 Saturday. It was confirmed that there were no major  
20 events occurring at Oglebay on the date of the counts.

21 The data was completed prior to the I-70  
22 construction and was completed prior to any restriction  
23 due to COVID-19.

24 Again, for the study intersections, we analyzed

1 an existing condition, a future year that included the  
2 development and did not include the development so we can  
3 determine the impact of the proposed development.

4 Mike, can you go to Slide No. 2.

5 so what this slide shows, after the data  
6 collection, we analyzed the current intersection  
7 operations just to determine how things are operating out  
8 there today. We do capacity analyses that assigned to a  
9 level grade of A to F for each intersection movement and  
10 overall -- Intersection A meaning the best, and F meaning  
11 failure, the worst.

12 The slide presented in front of you shows the  
13 existing AM peak hour operations on the Friday of the day  
14 that we collected. As shown, the AM hour experienced  
15 several movements that are near, at or over capacity. So  
16 that would be any movement that was at a Level of Service  
17 D, E or F. These included the existing Kroger's driveway,  
18 I-70 off-ramp at Mount DeChantal Road, the westbound left  
19 turn lane on Route 40 and Mount DeChantal Road, the  
20 eastbound left turn lane and the southbound left turn lane  
21 at Park Road and U.S. Route 40, the southbound Bethany  
22 Pike left turn and through movement, and the northbound  
23 Altenheim Avenue approach.

24 In addition, the overall intersection at

1 U.S. Route 40 and West Virginia 88 is currently getting  
2 near capacity, operating at a D during the AM peak hour.

3 Go to slide 3, please.

4 This slide shows the existing condition  
5 operation on a Friday afternoon peak hour. The same  
6 analysis was done with these volumes, and it shows that  
7 currently there are several movements that operate near,  
8 at or over capacity. Again, these are all the same ones  
9 similar to the AM, the Kroger's driveway, I-70 off-ramp,  
10 turn lanes at U.S. Route 40, the southbound left turn lane  
11 at Park Road and U.S. Route 40, the westbound U.S. Route  
12 40 left turn lane at Leatherwood Lane, the southbound  
13 Bethany Pike left turn through movement and the northbound  
14 Altenheim Avenue approach.

15 In addition, the intersection of Route 40 and  
16 Mount DeChantal Road is currently approaching capacity,  
17 operating at a Level D during the PM peak hour.

18 Then the step of our process -- which Mike is  
19 going to pull up slide 4 -- we look at a future-year  
20 condition. For this analysis, it was 10 years from the  
21 existing. So we looked at a 2030 condition. This is just  
22 applying a background traffic road rate that was obtained  
23 from the West Virginia Department of -- their planning  
24 division. It's a five-year existing volume that's

1 happening out there today to predict future-year  
2 conditions without any development. This does not include  
3 GC&P Development. We analyzed this condition to determine  
4 a baseline operation for comparison of when we do the  
5 future with the development condition.

6 This slide here shows your AM peak hour, and it  
7 does experience, again, several movements near, at or over  
8 capacity.

9 We had the same Kroger's driveway, 70. There  
10 was some new locations that got worse than before.

11 These included the overall intersection of  
12 Mount DeChantal Road, with I-70 is approaching a D in the  
13 AM peak hour.

14 In addition, the intersection of U.S. Route 40  
15 and Leatherwood Lane is also approaching a D.

16 The left turn movement on Route 40 at Bethany  
17 Pike is approaching a D. The overall intersection goes to  
18 a Level of Service E. So that intersection is projected  
19 without development in the AM peak hours to operate at  
20 capacity.

21 Then we did the same analyses in the PM peak  
22 hour. Mike is going to pull up the next slide.

23 This, again, shows that same movements that  
24 were near, at or over capacity continue to operate that

1 way. There were increases and delays and decreases in  
2 level of service. This includes the I-70 ramp went from  
3 an E to an S. The overall intersection is at a Level of  
4 Service D at Mount DeChantal Road and I-70. U.S. Route 40  
5 and Mount DeChantal Road is going to approach a Level of  
6 Service D with the left turn movement going to an F.

7 Likewise, at the intersection of U.S. Route 40  
8 and West Virginia 88, Bethany Pike, the overall  
9 intersection is nearing capacity at a Level of Service D.

10 The level turn movement from Route 40 on to  
11 Bethany Pike is near capacity without the development of  
12 Level of Service D. This is also the case for the  
13 southbound of Bethany Pike movement.

14 Then our next step is to analyze the best-year  
15 condition but adding site traffic to this condition. The  
16 next slide shows the anticipated increase in traffic to be  
17 generated by the proposed development. This was  
18 completed, assuming the preliminary development program  
19 was 997,900 square feet. This includes a mix of  
20 residential, hotel, entertainment, office, retail uses.  
21 As shown on this table, it projected that a development of  
22 this size is anticipated to generate approximately 8,468  
23 weekday daily trips. This would be throughout an entire  
24 24 hours. Saturday at approximately 9,500 trips daily and



1 throughout the entire day.

2 In our study time, in the AM peak hour, we're  
3 looking at approximately 370 total trips. That's 261  
4 entering, 109 exiting.

5 In the PM peak hour, we're looking at  
6 approximately adding 784 total trips to the total network.  
7 That's 337 entering, 447 exiting.

8 Saturday peak hours, we're looking for a total  
9 of 755 trips. That's 404 entering, 351 exiting.

10 These forecasted site trips associated with  
11 this development were based on local wheeling trip  
12 generation data from The Highlands development. This data  
13 was used in order to provide a more accurate traffic  
14 forecast for our region. These site trips were then  
15 distributed through our study area network based on a  
16 gravity population density model that was created and was  
17 added to our no-build, the ones you just saw, to analyze a  
18 future-year condition with our development so we can see  
19 what additional mitigation may be required.

20 So on the next slide, this mitigation that I  
21 will talk about in a minute is proposed -- this slide  
22 shows the future development, future 2030 condition with  
23 development for the AM peak hour. Based on this analyses,  
24 the results for the AM indicate that the proposed

1 mitigation at all intersections will be able to maintain  
2 overall intersection at level of service and improve in  
3 some locations. This includes National Road with Bethany  
4 Pike, National Road with Park Road, National Road with  
5 Leatherwood Lane, National Road with Mount DeChantal Road,  
6 Mount DeChantal Road with I-70 east on-off ramp and Mount  
7 DeChantal Road with Kroger's driveway.

8 we also do the analyses in the PM peak hour.  
9 The next slide that Mike is going to pull up is what's  
10 anticipated for the operation. As shown, the  
11 intersections of -- the results of the PM peak hour were  
12 shown that all intersections can be able to be improved or  
13 maintained. The only issue would be at U.S. Route 40 and  
14 West Virginia 88. This intersection shows that the  
15 following movements are continued to forecast to operate  
16 near, at or over capacity at that intersection. That  
17 includes the eastbound left turn movement, the westbound  
18 approach, the northbound approach, and the southbound left  
19 turn through movement.

20 Through discussions with GC&P, it is possible  
21 that a portion of, let's say, the office component which  
22 is part of this preliminary plan could be modified due to  
23 market demand and may decrease the amount of traffic that  
24 could go through this intersection. However, the analyses

1 shown here assumed a full build-out maximum potential  
2 traffic volume worse-case scenario.

3 So in order to reach these level of service  
4 conclusions, the final slide here, we came up with  
5 recommended mitigation to improve. This is in the report.  
6 We put it together on a little graphic to hopefully help  
7 you see what is being proposed at this level.

8 I'll start with on-site improvements. We  
9 recommended at the site driveway to West Virginia 88 to  
10 construct full axis driveway, providing two lanes ingress  
11 and two lanes egress. This would require widening  
12 southbound West Virginia 88 approach at the proposed site  
13 driveway to accommodate an exclusive left turn lane and  
14 exclusive through lane. The left turn lane would require  
15 a minimum of 275 feet of storage, exclusive of any taper.  
16 Again, we would widen the northbound 88 approach at this  
17 location to provide an exclusive northbound through lane  
18 and right turn lane. The right turn lane would need to  
19 provide a minimum of 450 foot of vehicular storage,  
20 exclusive of any taper.

21 We recommended installation of a fully actuated  
22 and coordinated traffic signal at this location. The  
23 signal would operate in three phases, giving a protected  
24 left turn movement for the southbound and then permissive

1 on northbound, southbound, and then your side street would  
2 proceed.

3 At the proposed secondary access on Warden Run  
4 Road, we recommended one lane egress and one lane ingress  
5 and just be in control with the stop sign.

6 At the location of U.S. Route 40 and west  
7 Virginia 88 Bethany Pike, it is recommended that traffic  
8 signals to be optimized. This includes removal of the  
9 existing all-pedestrian phase at this signal.

10 In addition, we recommend lengthening the  
11 southbound right turn lane to provide a minimum of 475  
12 feet of storage. It's also recommended with removal of  
13 the all-pedestrian phase to install pedestrian push-button  
14 actuation at all existing pedestrian crossings.

15 Likewise, at the intersection of U.S. Route 40  
16 and Park Road and Leatherwood Lane, it is also recommended  
17 that the signal timings be optimized to remove the  
18 existing all-pedestrian phase.

19 In addition, it is recommended to install the  
20 pedestrian push-button actuation at all existing  
21 pedestrian crossing locations.

22 In addition, the analyses showed the  
23 recommendation of optimizing signal timings at U.S.  
24 Route 40 at Mount DeChantal Road and with I-70 off ramp.

1           so that's kind of a general overview of the  
2 traffic study, the analyses completed, and the recommended  
3 mitigation to mitigate the development traffic.

4           CHAIRPERSON MAUCK: Thank you.

5           MS. SOUTHERN: Thank you.

6           CHAIRPERSON MAUCK: Commissioners, do you have  
7 any questions of this young lady.

8           MS. HUMWAY-WARMUTH: I would ask that Tom  
9 Connelly, on behalf of the review, address some of the  
10 concerns in regard to the 900-page Commission report.  
11 Maybe give a brief overview of concerns.

12           No. I'm sorry. I'm so sorry, but I do want to  
13 make that part of -- Tom, there were other things that we  
14 looked at and we talked about. If you could -- if you  
15 don't want to, fine.

16           COMMISSIONER WRIGHT: Could I just interject?  
17 It would be much easier to follow if -- just whenever we  
18 talk about the drawings, if they could just give us the  
19 figure number.

20           MS. SOUTHERN: Sorry.

21           COMMISSIONER WRIGHT: It's kind of hard to flip  
22 if you're not sure if you're on the right page.

23           CHAIRPERSON MAUCK: Thank you.

24           MR. CONNELLY: That was my initial question.

1 The last two slides that were up, the one that showed the  
2 proposed mitigation at each location and the one before  
3 that, I think, is really the focus of the finding was -- I  
4 believe, the future levels of service and delays based on  
5 build 10 years out with mitigation, what were those two  
6 figures?

7 MS. SOUTHERN: The build with development  
8 mitigation conditions started on Figure 19 for the AM peak  
9 hour, which was Page 59 of 892.

10 We have the PDF, Figure 20, for the PM.

11 There was also a Saturday analyses which should  
12 be Figure 21. That would be for the level of service  
13 mitigated.

14 The figure summarizing the improvement, there  
15 was not a figure provided in the report. It was just made  
16 for today's discussions.

17 Everything I detailed, real quick, are on  
18 Section K in the conclusion. It's the bulleted list of  
19 the report, which is the report Pages 25 through 26, and  
20 then it's also included in Section A of the executive  
21 summary, which is report Pages 7 through 8.

22 MR. CONNELLY: It was just nice to see it in  
23 graphic format.

24 MS. SOUTHERN: Yeah. I apologize. When we put

1 that together, we said the same thing. It was kind of  
2 nice. We should have added it.

3 MR. CONNELLY: Commissioner Mauck, that's why I  
4 had my hand up, just to try to get an idea what we were  
5 looking for in the binder. If you want to have  
6 Commissioner Conner and all the Commissioners ask their  
7 questions, I would prefer that. Then if there are any  
8 unanswered questions that I have, I would be happy to step  
9 those up.

10 CHAIRPERSON MAUCK: Thank you.

11 Commissioners, do you have any questions of  
12 this young lady?

13 COMMISSIONER SCHESSLER: I have one.

14 CHAIRPERSON MAUCK: Who said that?

15 COMMISSIONER SCHESSLER: Christina.

16 When you say you're going to change these  
17 locations, does that include widening the roads? What  
18 does that mean exactly?

19 MS. SOUTHERN: Just at the intersection of  
20 their proposed site driveway at West Virginia 88 and  
21 Bethany Pike, in order to accommodate the traffic, they  
22 would need to widen 88 to provide the exclusive turn  
23 lanes.

24 COMMISSIONER SCHESSLER: That's all they have

1 to do?

2 MS. SOUTHERN: For roadway widening, correct.

3 CHAIRPERSON MAUCK: That's all she's  
4 recommending they should do.

5 COMMISSIONER SCHESSLER: Right.

6 CHAIRPERSON MAUCK: They may do more.

7 COMMISSIONER SCHESSLER: I was just curious how  
8 it would impact the residents along the road. That's why  
9 I was asking.

10 CHAIRPERSON MAUCK: Other questions?

11 Seeing none --

12 Wendy.

13 COMMISSIONER SCATTERDAY: Just in follow-up to  
14 the widening, if you could talk about what that looks like  
15 in day-to-day real life both at the main entry area --  
16 it's a two-lane road right now with some berm to either  
17 side. I think what I see in the southbound -- which would  
18 be the baseball area down from that, that looked like on  
19 your drawing that that would be as wide as five lanes, and  
20 then I think at least four lanes. I'm not really sure  
21 exactly what I'm seeing in terms of northbound --

22 MS. SOUTHERN: I think on their concept, they  
23 originally showed the conceptional plan, but our analyses  
24 showed that within that intersection, proposed



1 intersection, that they would need to provide a three-lane  
2 segment to accommodate the northbound right turn lane and  
3 the southbound left turn lane, and it would be tapered  
4 back to a two-lane section.

5 COMMISSIONER SCATTERDAY: So the full length --  
6 the cumulative length from tapering beginning in the  
7 northbound direction and tapering beginning in the  
8 southbound direction, so if those are our two starting  
9 points to the north and the south bounding, that  
10 cumulative widening, whichever direction the traffic is  
11 going, you're saying that the road would be a three-lane  
12 road? It would have a dedicated turn lane if you're  
13 coming from one direction, and it would be opposite with  
14 that dedicated turn lane or pull-off lane in the  
15 northbound direction? So you're saying the cumulative  
16 widening that accommodates and mitigates all factors is  
17 three lanes total?

18 MS. SOUTHERN: Correct. It's ballpark about  
19 800 feet.

20 COMMISSIONER SCATTERDAY: Right. From taper to  
21 taper, end to end?

22 MS. SOUTHERN: Right.

23 COMMISSIONER SCATTERDAY: So in terms of the  
24 right-of-way that's there and physical limitations right

1 now, the anticipated -- I think this was talked about a  
2 little bit before -- the anticipated widening then would  
3 happen to what would be, if we need to refer to it, in the  
4 easterly direction, which is the housing that the property  
5 owner owns as opposed to the --

6 MS. SOUTHERN: The site side.

7 COMMISSIONER SCATTERDAY: The site side, yeah.  
8 That's a good way to refer to it.

9 Then down for the lane extension that's being  
10 called for from the Sheetz intersection and then moving  
11 back towards Homestead Avenue, by my estimation and just  
12 sort of using Google maps and trying to put a distance on  
13 that, the report says that the turn lane would need to be  
14 extended at a minimum of 475 feet, plus taper. So if you  
15 can help us understand what the physical properties of  
16 doing that work, what that really looks like then.

17 MS. SOUTHERN: You're just lengthening what's  
18 currently there. So a couple hundred more feet than  
19 what's currently provided.

20 COMMISSIONER SCATTERDAY: Right. So right now  
21 it's a two-lane road, with sidewalks to either side, and  
22 it essentially -- that entire length now needs to become  
23 three lanes?

24 MS. SOUTHERN: On the southbound approach,

1 there's currently two lanes on that approach, and then  
2 heading northbound, there's one lane. So there's  
3 currently three lanes there today. Southbound has one  
4 lane for all left through movement. That's in one lane.  
5 Then the other lane is an exclusive right turn lane. So  
6 that right turn lane segment would be lengthened to  
7 accommodate any increase in queue in either the right turn  
8 lane or in the through left turn lane.

9 COMMISSIONER SCATTERDAY: So the right turn  
10 lane that exists right now is only about 75 feet or so.  
11 We're talking about the entire length of the roadway needs  
12 to be widened so that the right turn lane from Sheetz will  
13 extend the full length of that section --

14 MS. SOUTHERN: Yes.

15 COMMISSIONER SCATTERDAY: -- all the way to  
16 Homestead bridge?

17 MS. SOUTHERN: Yes. Approximately to Homestead  
18 bridge, yes.

19 COMMISSIONER SCATTERDAY: Okay.

20 MS. SOUTHERN: Sorry. I had to get my  
21 bearings.

22 COMMISSIONER SCATTERDAY: That's okay. I  
23 understand.

24 Does everybody understand what I'm trying to

1 help us understand?

2 COMMISSIONER SCHESSLER: Yes.

3 COMMISSIONER SCATTERDAY: That would turn into  
4 three lanes for the full length from Sheetz all the way to  
5 Homestead Avenue. I just want to make sure that that  
6 distance was what you -- that that's what the impact is.

7 MS. SOUTHERN: Yes.

8 COMMISSIONER SCATTERDAY: Thank you.

9 CHAIRPERSON MAUCK: Other questions?  
10 Jeremy.

11 COMMISSIONER WEST: I know you said the  
12 independent study wasn't completed during any --  
13 specifically wasn't completed during any special events at  
14 Oglebay, but there's some special event throughout the  
15 year that can spill out and cause a little backup. My  
16 concern is with some of this Festival of Lights traffic.  
17 There are weekends currently that it goes all the way down  
18 the hill through the Sheetz intersection out to Perkins.  
19 Granted, it is thankfully now not as bad as it used to be  
20 over the years, but I think that brings up a whole host of  
21 issues of police/ambulance access. Those of us who live  
22 up here on the hill, that's a big concern of mine is  
23 getting up and getting down.

24 MS. SOUTHERN: We did have a meeting with west

1 Virginia Department of Highways, and we discussed the  
2 scope, and they specifically requested that we do not do  
3 counts during the Festival of Lights. A typical traffic  
4 study does not analyze specialized events. Even though  
5 their facilities does do events, they are responsible for  
6 event traffic, and that is why we do for a typical  
7 standard operational day.

8 CHAIRPERSON MAUCK: But still, Jeremy, it's  
9 there, and you got to deal with it.

10 COMMISSIONER WEST: Right.

11 CHAIRPERSON MAUCK: Any other questions?

12 I think we're done.

13 Do you have any more questions, Tom?

14 MR. CONNELLY: I have a couple.

15 CHAIRPERSON MAUCK: I see Mike waving his hand.

16 MR. MICHAEL HOOPER: Yes. I got someone else  
17 to comment once you're done with your question.

18 MR. CONNELLY: Just real quick, revisiting  
19 Jeremy's question about Oglebay Festival of Lights, at the  
20 April meeting, April 6th, the Commission was advised that  
21 the traffic data would be adjusted for Oglebay events,  
22 because, again, that's one of the main concerns that the  
23 Commission had with this project was -- if this project  
24 was by itself somewhere else as part of a city that

1 doesn't have gridlock on certain weekends, I don't think  
2 there would have been the concern. It's gridlocked at  
3 certain points.

4 what changed from April 6th when the Commission  
5 was advised that it would be adjusted for Oglebay events?  
6 Obviously this was put out to the State after the Festival  
7 of Lights was already over, and we knew it wasn't going to  
8 wait until the next round of Festival of Lights. Why  
9 wasn't the data adjusted?

10 MS. SOUTHERN: I was not aware of any  
11 adjustments required. I was not a part of the meeting in  
12 April.

13 MR. CONNELLY: That might be a question for  
14 Mr. Hooper.

15 MR. MICHAEL HOOPER: The easiest part is I was  
16 not a part of the scoping study, and you wanted this to be  
17 something that the West Virginia Division of Highways  
18 approved. So we did what the West Virginia Division of  
19 Highways wanted done.

20 MR. CONNELLY: Okay.

21 MR. MICHAEL HOOPER: Mr. Grayson wants to  
22 comment on that as well.

23 CHAIRPERSON MAUCK: Are you finished, Tom?

24 MR. GRAYSON: This is in response to Tom's

1 question about the impact of Oglebay events on the TIS.

2 So having been involved in probably in excess  
3 of 40 traffic impact studies for developments up and down  
4 the east coast, it is common practice for a department of  
5 Transportation to instruct traffic engineers to not allow  
6 them to take existing counts during special event traffic  
7 days.

8 while I can't say for certain what the reason  
9 for that is, it's probably because it would be -- those  
10 traffic studies would conclude that that Department of  
11 Transportation's facilities were in total failure during  
12 the existing condition, that they would be in control  
13 failure, and that's not a conclusion that the Department  
14 of Transportation wants to come to. They would rather see  
15 that the developer be responsible for mitigating traffic  
16 based on the non-event condition.

17 However, it does beg the question that to the  
18 extent that special events are causing the facilities in  
19 the study area take that we had the study, to the extent  
20 that they are causing failures at all of those  
21 intersections on enough days per year -- it's not just the  
22 Festival of Lights, but there's a lot of other events.

23 To the extent that they are causing failures  
24 other days per year, the responsibility for the

1 improvement of the intersections really fall on the  
2 Department of Transportation as opposed to the developer.  
3 That's all part of what gets negotiated between the  
4 developer and the Department of Transportation when the  
5 development agreements are actually done.

6 There's a couple of other things that I wanted  
7 to mention with respect to this TIS.

8 Traffic engineers are not given the tools to  
9 model the impact in the standard methodology of traffic  
10 impact studies. One of them is -- there really isn't a  
11 method for measuring how a change in land use in an area  
12 can dramatically effect behaviors in terms of where people  
13 conduct their trips.

14 So if you have a corridor, I would say like  
15 Route 88, that is almost exclusively a residential  
16 corridor where no commercial services are really  
17 provided -- so every household formation that occurs in  
18 that corridor has to enter and leave the corridor to  
19 accomplish every trip, whether it's commuting to work,  
20 taking kids to school, every shopping trip, getting  
21 coffee, getting groceries -- when every one of those trips  
22 has to impact the study area intersection and the trips  
23 are much longer than they have to be because the land uses  
24 that those household formations aren't provided in close



1 proximity.

2 So land use is perhaps -- it can be -- rather  
3 than capacity improvements, which would be like roadway  
4 widenings and things like that, land use changes can have  
5 a more enduring impact to traffic mitigation than even the  
6 capacity additions.

7 So if you agree with me that this is a corridor  
8 that is almost entirely residential and if you look at the  
9 growth rate that we were assigned by DOH for this region,  
10 I don't think that growth rate is uniform throughout the  
11 entire City, because you've got -- I mean, we all know  
12 that the population decline in the Wheeling metro area has  
13 been fairly substantial in the last decade, and yet we  
14 still have a positive growth rate to reflect in this  
15 traffic study.

16 I think it's probably a fair rate for the Route  
17 88 corridor because it is a corridor that's intended to  
18 prosper, while perhaps other parts of the City have lost  
19 population. But in terms of that prosperity, it's mostly  
20 been in the form of residential household formation in the  
21 county.

22 My concern here is that one of the things that  
23 this traffic study may not be picking up in the 2020  
24 no-builds where the growth rate is applied to the existing

1 counts, is it may not actually be picking up the level of  
2 failures that are likely to occur at the study area  
3 intersections from all those people who live in the Route  
4 88 corridor who have to leave the corridor and re-enter to  
5 accomplish any commercial services.

6 So the study isn't really -- like I said, the  
7 ITE methodology doesn't really give the traffic engineers  
8 the tools that they need to really accurately predict what  
9 impact that change in land use might have where you  
10 provide a land use that doesn't presently exist in the  
11 corridor.

12 when you change the land use, some of the other  
13 models assumptions, like pass-by -- the pass-by trips that  
14 are occurring right now, we're only allowed to go up to a  
15 certain level of pass-by, but, in fact, you put a land use  
16 that doesn't presently exist in the corridor, the pass-by  
17 could be dramatically higher than we're allowed to predict  
18 under ITE methodology.

19 Those are some of the examples.

20 One final thing is that models are not perfect,  
21 as we all know. while I think our traffic engineers have  
22 done just an incredible job of attempting to predict how  
23 much traffic might be generated by this development,  
24 especially when doing the extra work to come up with a

1 local trip generation that's based on an existing  
2 development in the market, The Highlands -- but The  
3 Highlands is a super-regional development. Ours is a  
4 community-scaled development.

5 so The Highlands, because their tenants can  
6 cause sales inflow to the market, they can create a higher  
7 level of trip generation than what a community center  
8 would generally cause, because they're drawing -- like a  
9 Cabela's, they are drawing in customers from outside of  
10 the market. So their trip generation is being  
11 dramatically increased as a result of sales inflow that  
12 doesn't occur when you have a community-center  
13 development.

14 My final point is that --

15 CHAIRPERSON MAUCK: This is your final point  
16 now.

17 MR. GRAYSON: My final point is that because I  
18 was somewhat concerned about the use of traffic impact  
19 studies as a predictor -- as a methodology for predicting  
20 traffic, I actually in a couple of developments put  
21 traffic counters post-development on the driveway and the  
22 closest intersections to the project. In both cases, just  
23 at the driveway that connected the development to the  
24 roadway, the traffic trip generation was overstated by

1 30 percent.

2 So it suggests that the nationwide data that  
3 gets developed sometimes isn't necessarily a great  
4 predictor for specific markets because they all react  
5 differently. The trips that are generated are all very  
6 different, depending on how prosperous the marketplace is  
7 and how the development -- the competitive issues and how  
8 the development adds to new uses to that marketplace.

9 Those are my laymen's comments to the traffic  
10 study.

11 CHAIRPERSON MAUCK: Thank you for those words,  
12 Mr. Grayson.

13 We got anything else to say on our Traffic  
14 Impact Study?

15 MS. HUMWAY-WARMUTH: Mr. Connelly?  
16 Mr. Connelly?

17 CHAIRPERSON MAUCK: Mr. Connelly?

18 MS. HUMWAY-WARMUTH: Mr. Connelly, do you have  
19 any other comments?

20 MR. CONNELLY: I do. I was just waiting to be  
21 recognized by the chairman there.

22 I have another question for Mr. Hooper because  
23 I ask the study questions.

24 CHAIRPERSON MAUCK: Tom, you're going to wrap

1 this up.

2 MR. CONNELLY: This is fairly important stuff.  
3 I know we've all been patient, and we're getting ready for  
4 public hearing, and I don't want it to be glossed over.

5 CHAIRPERSON MAUCK: Right.

6 MR. CONNELLY: If you want me to stop, I'll  
7 stop here. This is the Commission. I'm the staff, so you  
8 can cut me off anytime.

9 CHAIRPERSON MAUCK: That's right. Thank you.

10 MR. CONNELLY: Getting back to some of the  
11 staff reports, so the Planning Commission has been talking  
12 about this traffic study -- not just the transportation  
13 impact study but also then having the comments from the  
14 Department of Highways. I don't think I was the only one  
15 under the assumption that we would be getting their review  
16 of it since we started talking about it last year.

17 So I guess the question is: when was the  
18 decision made to not send it to them for comment? Because  
19 going back through some of the meeting transcripts, it  
20 looks as of the May 11th even, I mentioned it, the City  
21 attorney mentioned it, Commissioner Scatterday mentioned  
22 it. We all talked about just not getting a traffic impact  
23 study, but then also getting the Department of Highways  
24 division or the Department of Transportation to comment on

1 it. I was surprised to see then that that wasn't  
2 happening.

3 so the question is: when was it decided not to  
4 send?

5 MR. MICHAEL HOOPER: we would love to have them  
6 review it. They said they will not review it unless we  
7 have an executed development agreement. The development  
8 agreement that was submitted is somewhat onerous and  
9 something that, until we have something in mind or until  
10 we have an approved plan, we're not comfortable signing an  
11 agreement that commits us to do anything with the State.

12 Yes, there's provisions in there that says we  
13 don't have to do it, but to do that, we still have to make  
14 a commitment if they sign it to do it under those  
15 circumstances. What I mean by that is we sign the  
16 agreement, then our only choice is to not do the agreement  
17 at all or to do everything.

18 we have no negotiation leverage at this point.  
19 The costs are unknown. So usually, again, in these  
20 circumstances, after you have an approved plan, an  
21 approved site plan, then you have an actual traffic study,  
22 you enter into negotiations with the State, then you sign  
23 the development agreement, and you make the improvements.

24 Again, from our standpoint, it's premature to

1 do that. If the City says make any change to what we've  
2 submitted, anything at all, then we have to have a whole  
3 new traffic study.

4 MR. CONNELLY: Possibly.

5 MR. MICHAEL HOOPER: Yeah. No, not possibly.  
6 We've been told that by the State. If you have enough  
7 leverage with the State that you can have them review that  
8 without entering into a development agreement, we're 100  
9 percent behind it. I'll make the request tomorrow, but  
10 I'm not going to let my client commit to making  
11 improvements if you give the green light without the  
12 ability to effectively negotiate that. Make sense?

13 MR. CONNELLY: It does.

14 So when was that all determined that you  
15 wouldn't be entering into the agreement and executing  
16 that?

17 MR. MICHAEL HOOPER: I think within the last  
18 two or three weeks.

19 MR. CONNELLY: Okay.

20 MR. MICHAEL HOOPER: We just weren't not  
21 willing to make that financial commitment. We've spent,  
22 again, hundreds of thousands of dollars providing extra  
23 information. It sounds like you're going to want some  
24 more, and we're doing our best to appease you. The whole

1 idea of this thing is to make a little bit of money, and  
2 you're not giving us a whole lot of leverage to do that.

3 We're trying our best. We're just trying to  
4 get clear what we have to do. The development agreement  
5 just doesn't make sense. We have the expert here who does  
6 it. I've spoken enough about it.

7 MR. CONNELLY: So my conversations with  
8 Mr. Cramer was that any changes would warrant a review of  
9 the development agreement and may necessitate changes, but  
10 that wasn't automatic that if you made a change here and  
11 there, that that would automatically throw the current TIS  
12 out the window and we had to start over.

13 MR. MICHAEL HOOPER: That's not what I've been  
14 told by my experts.

15 MR. CONNELLY: I appreciate the answer. Like I  
16 said, I have been waiting on it, the Commission has been  
17 waiting on it, and then here we are getting ready. Unlike  
18 the last set of information, we didn't have anyone to kind  
19 of put a -- I'll call it a neutral eye on what's been  
20 submitted. So now we have commissioners and staff going  
21 through this trying to possibly avoid questions if we  
22 would have had other input on it.

23 So some of the technical questions -- if you  
24 can put the slide back up on 40, 88 and Altenheim Avenue,



1 the post-build with mitigation. This is the second to the  
2 last.

3 MR. MICHAEL HOOPER: Second to last?

4 MR. CONNELLY: The one right before that.

5 So I think, again, going into this, everyone  
6 assumed that that intersection, the yellow E, was going to  
7 be the problematic intersection just because of current  
8 conditions sometimes.

9 So I'm going to try to go through some of the  
10 questions that I have.

11 when you say you're being negatively impacted  
12 marginally, is that an industry term, or is that something  
13 where the Department of Transportation said there's a  
14 marginal level that will be permitted or it's  
15 unacceptable, or is that just a descriptor of it is now  
16 failing at three of the four approaches? I just don't  
17 understand how that's marginal.

18 COMMISSIONER WRIGHT: Can you give us, again,  
19 the figure number on the drawing?

20 MS. SOUTHERN: Sure. Figure 20.

21 COMMISSIONER WRIGHT: Thank you.

22 MS. SOUTHERN: You're welcome.

23 "Marginally" is a traffic term. There are many  
24 factors that the State looks at. Not only movement,

1 approaches, but they look at overall. They look at  
2 available right-of-way for physical improvements.  
3 Physical improvements cannot be made based sometimes --  
4 depending on their discretion and how they review it.  
5 We'll accept optimization of traffic signals if it shows  
6 that maybe only one out of all analyzed will have an  
7 increase in traffic delay because it will disperse  
8 throughout the rest of the time.

9 MR. CONNELLY: I wasn't sure if that was an  
10 industry example or not.

11 So when you're showing this intersection here,  
12 does it ever stack up or would the study have shown if it  
13 would have stacked up enough, let's say, 40 eastbound,  
14 left turn onto northwest West Virginia 88 -- when you talk  
15 about the level of cars that would be approaching that  
16 intersection and the number of seconds that would be  
17 delayed. I think at this intersection it's double, if not  
18 more. Would the study have shown if it backed all the way  
19 up to Leatherwood Lane and Marathon driveway which is a  
20 green B?

21 MS. SOUTHERN: It could have. You would have  
22 had to look at the Queue Analysis Summary. There's a  
23 table in there that summarizes what they call the 95th  
24 percentile queue length. It's a measure in feet. That is

1 showing that five percent of the time, the worst-case  
2 five percent occurring, it gives you a distance in the  
3 traffic analysis software that we use.

4 I would have to pull up my report, but it's  
5 Table 2, and I do not believe that it showed a queue path  
6 any adjacent study intersection or even any adjacent city  
7 roadway.

8 MR. CONNELLY: When you mitigate these  
9 intersections, one of the methods you talked about was  
10 removing the all-pedestrian phase. I assuming that means  
11 throughout every cycle, there's a phase where all four  
12 corners have a lock. What you're suggesting is making it  
13 so you have to activate the button for that specific  
14 crossing and not just automatically allow for it?

15 MS. SOUTHERN: Correct. Yeah. Say your cycle  
16 has 90 seconds from one -- you're sitting on one approach  
17 in your car, and you get the green. Before that approach  
18 gets the green again, the whole cycle of the traffic  
19 signal takes 90 seconds. 25 seconds of that 90 seconds is  
20 approximately given to an all-pedestrian phase for less  
21 than 10, 15 pedestrians crossing during the peak hour  
22 where all traffic at that intersection is required to stop  
23 and no traffic is moving at any of these locations that  
24 have these pedestrian phases.

1                   So to improve traffic flow in a corridor, the  
2 benefit -- it's recommended that that been removed and  
3 installation of the push-button actuation. So if a  
4 pedestrian does come, they could push the button.  
5 Pedestrian times would be calculated to ensure that the  
6 pedestrian can cross that back location in the amount of  
7 splits given, and they will still be given the okay to  
8 proceed.

9                   MR. CONNELLY: That makes sense.

10                  MS. SOUTHERN: The safety mechanism is still  
11 there for the pedestrians but improving the corridor  
12 overall.

13                  MR. CONNELLY: Explain a little bit -- when you  
14 talk about the local residents' impact on the data -- I  
15 think it's on Page 4, Paragraph 2. So like right now, if  
16 someone from Elm Grove wants to go grocery shopping, they  
17 have a number of ways to get on the interstate and get off  
18 at Kroger's. But in this example, if they decide to go  
19 through the new development, they would be traveling on  
20 40. So I was trying to understand. When you said that  
21 the local residents' traffic wouldn't impact the  
22 intersection. Are you saying that it's already there and  
23 accounted for?

24                  Let me get to Page 4 where that's spoken.

1 MS. SOUTHERN: Sure.

2 MR. CONNELLY: It says, "Currently local  
3 residents utilize the Route 40 corridor and I-70 to access  
4 their household needs. However, the proposed  
5 community-scaled mixed-use development will provide the  
6 household needs for these local residents, thus reducing  
7 the volume of traffic originally destined outside the  
8 study area via U.S. Route 40 and I-70."

9 I was trying to figure out what that meant in  
10 terms of this development. So I may have misunderstood  
11 the term completely. If you can help me with that.

12 MS. SOUTHERN: No problem.

13 The woodsdale development especially, people  
14 who live in that neighborhood who use the side streets to  
15 access Route 88 to come down to Route 40 to get where they  
16 want to shop or go to I-70 to hop on the highway to go to  
17 The Highlands, they longer have to do to go to the grocery  
18 store. That volume at the intersection of Route 40 and  
19 Route 88 will decrease because now these people who once  
20 made a trip from their home to these commercial or  
21 wherever, office, wherever they were heading to just do  
22 whatever, they are now going to have the option to  
23 continue north on Route 88 from this community to access  
24 the site for their needs.

1           so the volumes developed in our traffic study,  
2 they do not account for rerouting of existing traffic to  
3 go to this development. It is just assumed that somewhere  
4 in the magical world of the cars, that they are coming  
5 from this outside source into our network to produce an  
6 overestimated volume just to help determine the mitigation  
7 required for potential improvements.

8           It's a worse-case estimation, but for traffic,  
9 that's the best that we can do, unless you sit there and  
10 do some long origin destination site where you survey  
11 every resident to determine where they are going to and  
12 what they are using. It's anticipated.

13           MR. CONNELLY: That helps me understand that.  
14 Thank you.

15           Then you were using a figure of 900 and some  
16 thousand square feet. When I was looking at the binder,  
17 it looks like the site plan you have is similar to the  
18 site plan that we had to calculate a lot of our impacts on  
19 sewer and water and everything. I think it was Map 10  
20 that actually provided a breakdown. I only came up with  
21 700 and some thousand. So I wasn't sure --

22           MR. MICHAEL HOOPER: That doesn't include the  
23 residential, Tom. That doesn't include the residential.

24           MS. SOUTHERN: To determine the amount of

1 traffic, it was estimated that every townhome unit was  
2 approximately 1,500 square feet because the trip  
3 generation is based on a total square footage to make sure  
4 all components were accounted for. That's where the  
5 difference lies.

6 MR. CONNELLY: Residential makes up the  
7 difference. Thank you. That answers that question.

8 I'm sure that you're aware that now the  
9 intersections are all closed in the area. I know this was  
10 taken about a week before that. Locally I think people  
11 were encouraged to start changing their routes early so  
12 they didn't wake up Monday morning and find out there was  
13 the detour. I don't know. Would there be a way to tell  
14 if these levels were lighter than normal since people were  
15 told to practice and prepare and not wait until  
16 February 1st before they actually started to use the  
17 detour?

18 MS. SOUTHERN: It was what the Department of  
19 Highways recommended. They were the ones who said we had  
20 to count prior to the I-70 detour.

21 MR. CONNELLY: Okay.

22 MS. SOUTHERN: So we were limited to -- after  
23 our meeting, we had two weeks, which if we had to count a  
24 Friday and Saturday, we had two weekends to get the data

1 collected before I-70 closed. There was a lot of  
2 intersections to go and count. We were able to do that  
3 per their request and requirement.

4 MR. CONNELLY: Thank you very much. I was just  
5 trying to understand some of that. Thank you.

6 MS. SOUTHERN: Sure. Thank you.

7 CHAIRPERSON MAUCK: Tom, we're going to move  
8 right into the public hearing.

9 MR. CONNELLY: Let me ask Mr. Hooper if he  
10 could stop the screen share. There we go. Thank you.

11 I e-mailed the Commission to let them know my  
12 update from Wheeling Park if the Commission was interested  
13 in conducting the public hearing. We are able to meet the  
14 notification requirements for a July 13th meeting, which  
15 is our next regularly scheduled Planning Commission  
16 meeting, again, if there is support from the Commission.

17 In speaking with Wheeling Park today and  
18 actually Mr. Gamble of the Ohio County Health Department,  
19 the number they could accommodate upstairs is 100 to 150  
20 as of now, but that may change in the next 30 days. Then  
21 there's also room on the first floor for overflow  
22 participants that could have a screen and be able to watch  
23 remotely like this if the room fills up. I know the last  
24 time we met, we weren't sure of what we could do for a



1 public hearing. So if the Commission is ready to move  
2 forward, that to me seems like the best option in terms of  
3 locations.

4 CHAIRPERSON MAUCK: 100 to 150?

5 MR. CONNELLY: Correct.

6 CHAIRPERSON MAUCK: Commissioners?

7 COMMISSIONER WEST: I guess to increase  
8 participation, if one family member, the person going to  
9 speak, would come upstairs -- I don't know if there is a  
10 way to do that.

11 MR. CONNELLY: I don't want to limit the one  
12 opportunity for people to have their voice heard. So I  
13 don't to put too many ground rules in place for it other  
14 than a three-minute maximum or something like that.

15 I would encourage -- and we will do a press  
16 releases to visit the website to read as much information  
17 as possible leading up to it, so some of the questions or  
18 topics that have been talked about at length, they will be  
19 familiar with prior to showing up. It is up to the  
20 Commission on what type of presentation they want to have  
21 before the meeting. I wouldn't recommend we say one  
22 household member could speak.

23 MS. HUMWAY-WARMUTH: Right. We cannot do that.  
24 We cannot do that. We cannot do that. But many times we

1 have said that if there are several people, that one  
2 spokesperson can speak for several people. Maybe it could  
3 be by a written document for purposes of record, but we  
4 cannot limit that.

5 CHAIRPERSON MAUCK: Yeah. The public can still  
6 send in e-mails to Tom to be delivered to us to comment  
7 rather than showing up --

8 MS. HUMWAY-WARMUTH: Right.

9 CHAIRPERSON MAUCK: -- or they can show up and  
10 not speak, put their comments -- so they can think about  
11 what they want to say, put their comments on an e-mail and  
12 send it to Tom who would forward it to us.

13 MS. HUMWAY-WARMUTH: It will be on record, yes,  
14 Chairman.

15 COMMISSIONER MONROE: Tom, do we have any other  
16 business to attend to next month besides the public  
17 hearing at this stage in the game?

18 MR. CONNELLY: well, at this stage of the game,  
19 no. At this stage of the game, no. We have a site plan  
20 deadline on June 29th. I haven't had any discussions with  
21 anyone where I would anticipate something. I knew when  
22 Northwood was approaching. I knew when the school  
23 district was approaching. I haven't heard anything out  
24 there that's on the brink of being applied for.

1           COMMISSIONER MONROE: I was just thinking --  
2 should we consider moving it to 6:00 for a little more  
3 public involvement time? If there are other issues  
4 though, we could have our regular meeting at 5:00 and  
5 public hearing at 6:00. That's why I'm asking.

6           MR. CONNELLY: We talked about having a regular  
7 meeting starting at 5:00 and public hearing starting at  
8 6:00. That was something that the Commission talked about  
9 earlier.

10          COMMISSIONER MONROE: I think it's time for us  
11 to move forward on this. We keep putting it off and  
12 putting it off for public hearing for a variety of very  
13 good reasons. I've voted and recommended we put it off  
14 several times, but I think it's about time to have an  
15 official public hearing.

16          I want to be clear. I think we've heard a lot  
17 from the public already. It's not that the public hasn't  
18 had input. It's had tremendous input into this. I think  
19 it would be appropriate to schedule the public hearing on  
20 the 13th.

21          CHAIRPERSON MAUCK: Any comments,  
22 Commissioners?

23          Howard, are you going to be at the meeting?

24          COMMISSIONER MONROE: Most likely, yes.

1 CHAIRPERSON MAUCK: All right.

2 COMMISSIONER SCATTERDAY: I have a question.

3 CHAIRPERSON MAUCK: You have a question?

4 COMMISSIONER SCATTERDAY: Yes. would we,  
5 should we, could we provide a vehicle of which, if there  
6 was a person who did want to make a comment, that they  
7 could call in by phone or we could arrange for a Zoom  
8 screen to be in the venue? I'm just trying to think about  
9 folks who have health conditions, underlying conditions.

10 CHAIRPERSON MAUCK: How about e-mail?

11 COMMISSIONER SCATTERDAY: There is a difference  
12 between conveying your sentiments verbally versus by  
13 e-mail. I'm just asking a question. Is there a way to  
14 facilitate --

15 CHAIRPERSON MAUCK: Tom has the answer to that.

16 MR. CONNELLY: We have had public hearings on  
17 Zoom with call-in ability. It gets above my IT level very  
18 quickly. I can look into that to see how that could be  
19 accommodated. But, yeah.

20 MS. HUMWAY-WARMUTH: Tom, you and I have both  
21 -- as far as staff, we have talked about that --  
22 Commissioner and Councilwoman, we have talked about that  
23 in regard to certain things in regard to sign-up sheets,  
24 distancing, et cetera. So we will look into that. We

1 want to see how that would work. We do have some folks  
2 within the Park Commission, as well as within City staff  
3 that will see what we can do, and we'll put that  
4 information into the public notice.

5 COMMISSIONER SCATTERDAY: Thank you, Rose.

6 COMMISSIONER MONROE: Let me just add my  
7 comment as Commissioner Mauck asked if I would be there.  
8 I'm in a very high risk category. I will be probably be  
9 there because it is important, but I can imagine there are  
10 going to be folks who are going to be very antsy about  
11 being in a large public event like that. I think it would  
12 be of value if we can find a way to allow them to  
13 participate visually, as well as via e-mail. As I believe  
14 Commissioner Scatterday stated, there is a big difference  
15 between somebody sending an e-mail and being in person or  
16 at least being on screen.

17 MS. HUMWAY-WARMUTH: The City will do as much  
18 as we can, which I think that we will be able to  
19 accommodate that, Commissioner, to join in on Zoom or from  
20 another telecommunications device for persons who wish  
21 to -- including our Commission, who want to participate  
22 that way.

23 COMMISSIONER MONROE: Mr. Chairman, do you want  
24 a motion to that effect?

1 CHAIRPERSON MAUCK: Yes.

2 COMMISSIONER MONROE: I make a motion to hold a  
3 public hearing at 6:00 p.m. on July 13th at Wheeling Park.

4 COMMISSIONER SCATTERDAY: Second.

5 CHAIRPERSON MAUCK: Seconded by Wendy  
6 Scatterday.

7 All in favor?

8 ALL COMMISSIONERS: Aye.

9 CHAIRPERSON MAUCK: They are all in favor.

10 MR. CONNELLY: I have a question.

11 CHAIRPERSON MAUCK: Yes.

12 MR. CONNELLY: Is that something that you're  
13 going to work on, how you envision the public hearing  
14 going as far as a presentation of a few minutes or not at  
15 all? What type of public hearing do you anticipate this  
16 looking like? If you want to think about it, that's fine.

17 CHAIRPERSON MAUCK: I think we say a few kind  
18 words and just then just dive right into it because  
19 there's going to be people there. Martha is bringing  
20 lunch. We can kind of sit back. I wouldn't do much  
21 up-front unless you felt you wanted to summarize where we  
22 are.

23 MR. CONNELLY: My question is more for the  
24 applicant. Do you want Mr. Hooper to provide an overview

1 of where it started, where it is, the Special Area Plan  
2 request, that whole thing? Not me.

3 CHAIRPERSON MAUCK: I was thinking it would be  
4 better if Mr. Hooper at the end was provided 10 minutes or  
5 15 minutes to address things that were brought up. No?  
6 You don't like that? All right. Say again what you said.  
7 You want Mr. Hooper to summarize --

8 MR. CONNELLY: Summarize the Special Area Plan  
9 request, right. To summarize the Special Area Plan  
10 request.

11 MS. HUMWAY-WARMUTH: Yes, summarize that at the  
12 beginning for a period of X amount of minutes, 10 minutes.

13 MR. CONNELLY: The Comprehensive Plan amendment  
14 and the Special Area Plan, I think just to summarize it is  
15 what would be helpful, and then that can be the lead off  
16 to the comments.

17 MR. MAUCK: If nobody has any particular  
18 feelings about it, I'm fine with that. He can do that and  
19 still have 10 minutes at the end to rebut a little bit if  
20 something new comes up that we haven't heard before.

21 COMMISSIONER MONROE: A public hearing allows  
22 the public to offer their comments. At the end of the  
23 public hearing, if the Commission at that point feels the  
24 need to pursue any more with Mr. Hooper, I think that

1 would be appropriate. But the public hearing really is  
2 designed for the public to have their say. I'm in favor  
3 of having a little explanation up-front, and then when the  
4 public hearing is done, we can decide if we have more  
5 questions. We probably will based on what the public has  
6 to say, as Mr. Hooper and/or anybody who is with them.

7 CHAIRPERSON MAUCK: Are you all right with  
8 that, Mike, doing a little overview up-front?

9 MR. MICHAEL HOOPER: I will do whatever the  
10 chair will allow.

11 CHAIRPERSON MAUCK: You can call Tom and he  
12 will tell you what to say.

13 MR. MICHAEL HOOPER: A short summary and no  
14 more than 10 minutes at the end.

15 CHAIRPERSON MAUCK: Wendy?

16 COMMISSIONER SCATTERDAY: I would like the  
17 opening also to have Mr. Connelly kind of just run through  
18 the points that are germane to the issue in terms of  
19 queuing up and reminding everyone that's in attendance and  
20 paying attention what are the questions on the table in  
21 terms of what our purview is or the Commission and what  
22 the three to five most germane items are that are in  
23 regard to the Special Area Plan and the criteria for our  
24 review.



1 MS. HUMWAY-WARMUTH: The City would expect no  
2 less. The City would expect no less. So Mr. Hooper and  
3 Mr. Connelly can have a presentation and then those  
4 comments from the public -- they are totally comments, not  
5 questions and answers, but totally comments. But we would  
6 expect no less, and I will excuse myself now.

7 MR. MICHAEL HOOPER: Mr. Chairman, can I  
8 reiterate the invitation to any member of the City or any  
9 member of the Planning Commission, that they are free to  
10 look at everything we have up here. We are more than  
11 happy to either give them access to the property or take  
12 them up in the little green monster vehicle. So far we've  
13 only had two take us up on that offer. You get a much  
14 different perspective and understanding of the project  
15 when you're on site. So I make that an open invitation.  
16 Just let me know, and I'll make it happen.

17 CHAIRPERSON MAUCK: Thank you.

18 You're going to work on the 13th of July, 6:00  
19 for the meeting, right, Tom?

20 MR. CONNELLY: Yes.

21 COMMISSIONER SCATTERDAY: Are we in agreement  
22 that we are limiting the comments to three minutes each  
23 per person?

24 MS. HUMWAY-WARMUTH: Yes. It should be in a

1 similar fashion as City Council and any other public  
2 meeting for the commissions and boards of the City, and  
3 that is a three-minute period.

4 CHAIRPERSON MAUCK: Don't forget to e-mail  
5 Martha about your lunch order.

6 Moving on. New business?

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1 STATE OF WEST VIRGINIA:

SS: C E R T I F I C A T E

2 COUNTY OF OHIO:

3  
4 I, Susan Sommer LeCron, Registered Professional  
5 Reporter and Commissioner within and for the State of West  
6 Virginia, duly commissioned and qualified, do hereby certify  
7 that the foregoing Transcript of Proceedings is a transcript  
8 of verbatim stenotype notes taken during the proceeding and  
9 said Transcript of Proceedings constitutes all the testimony  
10 taken during this proceeding.

11 I do further certify that this hearing was taken at  
12 the date and time in the foregoing caption specified.

13 I do further certify that I am not a relative,  
14 counsel or attorney of either party, or otherwise interested  
15 in the event of this action.

16 IN WITNESS THEREOF, I have hereunto set my hand and  
17 affixed my seal of office at St. Clairsville, Ohio, on the  
18 16th day of June, 2020.

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Susan Sommer LeCron, RPR  
Commissioner within and for the  
State of West Virginia  
My commission expires: 6/7/2022