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Whitman Ford v. Township of Bedford

Deponent: Jon Whitman Taken: 6/15/2010



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Jon Whitman June 15, 2010

	STATE OF MICHIGAN	
IN THE CIR	CUIT COURT FOR THE COUNTY OF MONROE	
WHITMAN FORD, a	Michigan	
corporation,		
PI	laintiff,	
VS.	Civil Action	
	No. 09-27523-CH	
	HON. JOSEPH A. COSTELLO, JR.	
TOWNSHIP OF BEDE	FORD, a	
municipal corpor	ration,	
De	efendant,	
	/	
	tion of JON S. WHITMAN,	
Taken at 22	22 Washington Street,	
Monroe, Mic		
	at 10:37 a.m.,	
T uesday, Ju	ne 15, 2010,	
▲ *		
	e E. Rose, CSR-0087.	
	2 E. Rose, CSR-0087.	
	e E. Rose, CSR-0087.	

Jon Whitman June 15, 2010

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1	APPEARANCES:	1	Monroe, Michigan
2		2	Tuesday, June 15, 2010
3	THOMAS M. HANSON	3	About 10:37 a.m.
4	Dykema Gossett, PLLC	4	MR. GOLDSMITH: For the record, this is
5	1717 Main Street, Suite 4000	5	the deposition of Jon Whitman taken pursuant to
6	Dallas, Texas 75201	6	Notice and to be used for all purposes allowed
7	Appearing on behalf of the Plaintiff	7	under the Michigan Court Rules and Michigan law.
8		8	JON S. WHITMAN,
9	PHILIP D. GOLDSMITH	9	having first been duly sworn, was examined and
10	Lennard, Graham & Goldsmith, PLC	10	testified on his oath as follows:
11	222 Washington Street	11	EXAMINATION
12	Monroe, Michigan 48161-2146	12	BY MR. GOLDSMITH:
13	Appearing on behalf of the Defendant	13	Q. Jon, would you please state your full name for
4	·· · ·	14	the record?
15		15	A. Jon Steven Whitman.
.6		16	Q. And your business address?
.7		17	A. 7555 Lewis in Temperance.
. 8		18	Q. Just a couple of preliminary questions. Are you
.9		19	on any medications that would prevent you from
20		20	giving your best testimony today?
1		21	A. No.
2		22	Q. We're here to discuss a 41 acre plus or minus
3		23	parcel in Bedford Township that you submitted a
24		24	rezoning application for in 2008.
25		25	Who is the owner of that parcel?
	Page 3		Page 5
1	INDEX TO EXAMINATIONS	1	A. I believe it's Whitman Ford.
2	Witness Page	2	Q. And that's a Michigan corporation?
3	JON S. WHITMAN	3	A. Yes.
4		4	Q. And Whitman Ford was the owner of that parcel at
5	EXAMINATION BY MR. GOLDSMITH: 4	5	the time the rezoning application was submitted?
6		6	A. Yes.
7	INDEX TO EXHIBITS	7	Q. That rezoning application and I don't think
8		8	we've had this marked as an exhibit yet, so I'll
9	Exhibit Page	9	do that.
.0	(Exhibits attached to transcript)	10	DEPOSITION EXHIBIT 1
1	NOTE: Exhibits listed in order presented.	11	application for zoning change or amendment
.2		12	WAS MARKED BY THE REPORTER
13	DEPOSITION EXHIBIT 1	13	FOR IDENTIFICATION.
4	application for zoning change or amendment	14	Q. I'm going to show you what's been marked as
.5		15	Deposition Exhibit 1 and ask you if you can
.6	DEPOSITION EXHIBIT 2	16	identify that document.
.7	Township of Bedford, aerial imagery 60	17	MR. HANSON: Phil, does the actual
.8	DEPOSITION EXHIBIT 3	18	exhibit have the drawings on it?
.9	letter, Whitman to Wilburn, 10-24-08 94	19	MR. GOLDSMITH: Yes, it's attached to
0		20	that.
1		21	BY MR. GOLDSMITH:
2		22	Q. Do you recognize that document?
3		23	A. Yeah, Phil. This is not all my writing though.
24		24 25	I mean I didn't fill all this in.
25			Q. I was going to follow up and it's a three-page

2 (Pages 2 to 5)

Jon Whitman June 15, 2010

	Page 6		Page 8
1	document, is that accurate actually a	1	Q. Let's back up to that. Define for me, and maybe
2	four-page document, I'm sorry.	2	you already just did, what the scope of their
3	There's two drawings, a third and	3	work was to be?
4	fourth page there, is that correct, four pages	4	In other words, what did you hire them
5	there do you see?	5	to do? What directions did you give them?
6	A. I see four pages.	6	A. I couldn't fill this out. I don't know acreage,
7	Q. Let's talk about the top page, the actual	7	I don't know any of that stuff, Phil. I mean
8	rezoning or application for a zoning change.	8	you know, I don't know that.
9	You signed that document, correct?	9	Q. Fair enough.
10	A. Correct.	10	A. So I couldn't figure any of that out. I knew
11	Q. And you signed it as a representative of the	11	from the trial, I knew from numerous statements
12	owner of the property, Whitman Ford Company I'm	12	what people advised us to do, and I told them
13	presuming?	13	this is what I need to see on any rezoning, this
14	A. I guess, yes.	14	is what the advice has been given and I can't
15	Q. And there's some printing at the top of the	15	make this work. Can you make this work with all
16	document that provides some information. Do you	16	the other rules involved because it has to work.
17		17	
18	know whose handwriting that is? A. I do not know specifically. I believe this all		You just can't walk in there and I not
	came through DuBose, but I do not know whose that	18	be able to sell this land to somebody that wants
19	- ·	19	to develop it. It has to work. Can you help me
20	is.	20	on what I would call the technical or detail side
21	Q. And DuBose and Associates, Incorporated, were	21	of all the other rules that come under you
22	they acting as your agent at that time?	22	just ask for a piece of ground to be rezoned.
23	A. I hired them.	23	And that's as simple and complex as
24	Q. And that was in or about July of 2008?	24	their relationship with me was.
25	A. It started earlier than that, but it was in 2008.	25	Q. Who did you work with at DuBose and Associates?
	Page 7		Page 9
1	Q. When did you first hire them, if you recall,	1	A. It started out with a guy named John Sperry and I
2	approximately?	2	got transferred to or whatever word you use,
3	A. In the spring of 2008.	3	Phil, to another guy named Efrem Tinman [sic] or
4	Q. And what was your purpose in hiring DuBose and	4	Tenbaum [sic] or something like that, an Efrem
5	Associates?	5	guy.
6	A. To make an application for rezoning.	6	And so somewhere in this process I
7	Q. Did they act as an engineer, as a planning	7	worked with two different people.
8	consultant or in any other capacity?	8	Q. Do you know whether or not either John Sperry or
9	MR. HANSON: Object to the foundation.	9	Efrem Tennenbaum I think it is do you know
10	Go ahead and answer.	10	whether Efrem obtained a copy of the Bedford
1 1	A. I'm not sure what the differences are between the	11	Township zoning ordinance?
12	two things you just asked me, Phil, so I don't	12	A. I do not know.
13	know if I can answer your question.	13	Q. You mentioned the trial. Are you referring to
14	They advised me.	14	the trial that was conducted in front of Judge
15	BY MR. GOLDSMITH:	15	Costello a few years back?
16	Q. And did they advise you with respect to planning	16	A. Yes.
17	principles? For instance, did you provide them	17	Q. And did you obtain transcripts of that trial from
18	with a copy or did they somehow obtain a copy of	18	any of the people who testified, for instance any
19		19	of the planning experts or anyone else for that
20	A. I don't know if they have a copy of that. They	20	matter?
21	did not say do this, this and this on the	21	A. I didn't obtain transcripts from anyone that
22	specific zoning things.	22	testified.
23	I said to them what was said at the	23	Q. What I'm asking you -
24	trial and I said this is what they said and this	24	MR. HANSON: And I guess I'll object as
25	-	25	 Township zoning ordinance? A. 1 do not know. Q. You mentioned the trial. Are you referring to the trial that was conducted in front of Judge Costello a few years back? A. Yes. Q. And did you obtain transcripts of that trial from any of the people who testified, for instance any of the planning experts or anyone else for that matter? A. I didn't obtain transcripts from anyone that testified. Q. What I'm asking you - MR. HANSON: And I guess I'll object as vague, but go ahead.

3 (Pages 6 to 9)

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	Page 10		Page 12
1			
2	BY MR. GOLDSMITH: Q. Let me ask it another way. Did you or anyone on	12	Q. Would it have been before or after you contacted
3	your behalf if you know order any portion of that	3	DuBose and Associates to engage them to assist you in putting together a rezoning application?
4	trial in a transcribed form so you could read it?	4	A. I contacted DuBose before.
5	A. Yes.	5	Q. And this meeting that you had was, again, with
6	Q. After you obtained that or if someone obtained it	6	Walt Wilburn, the supervisor, correct?
7	on your behalf did you actually provide a copy of	7	A. Yes.
8	that to either John Sperry or Efrem Tennenbaum?	8	Q. Dennis Jenkins, planning, zoning?
9	A. No.	9	A. Yes.
10	Q. You simply advised them this is what was said at	10	Q. And your employee Lisa?
11	the trial, this is what I believe needs to be	11	A. Yes.
12	incorporated into any rezoning application to	12	Q. Is she still employed by Whitman Ford?
13	submit to the Township for its review?	13	A. Yes.
14	A. Effectively.	14	Q. And yourself, is that correct?
15	Q. Other than communicating that information to	15	A. Correct.
16	those gentlemen at DuBose and Associates what	16	Q. Did you call for the meeting? Did you call them
17	other steps did you take I'm going to back	17	up and say, "Hi, could I meet with you to discuss
18	away from that application for a minute what	18	rezoning or the Whitman Ford property?" or how
19	things did you do prior to actually submitting	19	did the meeting actually get scheduled if you
20	the rezoning application to Bedford Township and	20	recall?
21	it appears by the stamp it was submitted on or	21	A. I don't know how the meeting got scheduled. I
22	about July 25, 2008.	22	called up Dennis Jenkins and I said, "Dennis, I'm
23	So working backwards, what steps did	23	just going to tell you I'm planning on going for
24	you take? For instance, did you have any	24	zoning and I just want to let you know that and
25	meetings with anybody at the Township?	25	if you want to talk about it, let me know and if
	Page 11		Page 13
1	A. I met with Walt Wilburn and Dennis Jenkins.	1	not, I'll send you the documents."
2	Q. Just the three of you or was anybody else there?	2	I don't know how it got planned. After
3	A. Another person came.	3	that, I don't know what happened.
4	O. Who was that?	4	Q. Well, I'll ask you this question anyhow. You
5	A. Lisa Willis.	5	said if you want to talk about it. You were open
6	Q. And who's Lisa?	6	to going in there and talking with township
7	A. She's a citizen of Bedford. She also happens to	7	representatives, correct?
8	work for me.	8	A. I offered.
9	Q. What was your purpose in bringing Lisa along?	9	Q. But you don't remember exactly after making that
0	A. Honestly?	10	statement how the meeting came to be? For
1	Q. Yeah.	11	instance, did Dennis say, "Come on in, let's sit
2	A. I didn't trust anything that would be said to me,	12	down and talk" or if you recall?
3	so I wanted someone there in case things were	13	If you don't remember, you don't
.4	said that weren't truthful.	14	remember.
.5	Q. So you brought her as a witness?	15	A. He called me back and said, "We'd like to meet
6	A. Correct.	16	with you."
7	Q. Do you anticipate that she'll testify at the	17	Q. And so a meeting got scheduled and you met?
8	upcoming trial, this trial?	18	A. Correct.
9	A. I don't know what Tom's plan is.	19	Q. Tell me what happened at that meeting and what
20	Q. I would like you to recall for me, first of all	20	was said at that meeting to the best of your
1	when did that meeting occur?	21	recollection?
2	A. Before this obviously.	22	A. Maybe you need to ask me more I mean the
3	Q. Before the application?	23	meeting was approximately 45 minutes to an hour
24	A. Before this. Sometime in the spring of 2008 and	24	long. Many things were said.
25	I cannot tell you the exact date, Phil.	25	Q. Well, let's start with that. How did the meeting

4 (Pages 10 to 13)

Jon Whitman June 15, 2010

		1	
	Page 14		Page 16
1	get started? Did you provide a drawing to them	1	A. No, I do not recall the exact words. He used a
2	or say, "This is what I have in mind for this	2	number of cliches when saying to me about he
3	property"?	3	didn't care about what happened at the trial. He
4	How did the meeting start?	4	used a number of cliches over and over again or
5	A. The meeting was in Walt Wilburn's office. I	5	in a series to re-emphasize on that he didn't
6	said, you know we've had a trial. I'm going to	6	care about that.
7	do exactly what you said. I'm going to go	7	Q. Other than those comments that he made did he
8	exactly what was you know, the things that	8	respond in any way to your proposal to submit a
9	were said in the trial, the things I have from	9	new rezoning application?
10	that trial, and I'm going to put this forth.	10	A. What does your question I don't understand
11	And this is why I'm doing this, just	11	your question.
12	based upon what was said in the trial, not just	12	Q. You had when you met with him you previously
13	the trial but in depositions also, Phil.	13	testified that you advised both Mr. Wilburn and
14	Q. Depositions that were taken prior to the trial,	14	Mr. Jenkins that you were going to submit a
15	is that what you're referring to?	15	rezoning application, and I'm paraphrasing here,
16	A. Correct.	16	that it was going to be based upon what had
17	Q. Any depositions in particular, any particular	17	transpired at the previous trial and in
18	individuals that were deposed that you were	18	depositions that were taken prior to the trial.
19	relying upon or thinking about at that time?	19	I assume I'm going to assume based
20	A. One of them is you.	20	upon what some of the experts testified to, the
21	Q. Any other ones?	21	planning experts, and did he have any response to
22	A. Julie Johnson.	22	that directly to your plan to submit a new
23	Q. Anyone else besides Julie?	23	rezoning application?
24	A. Paul LeBlanc.	24	A. He repeatedly said that he didn't care what
25	Q. Anyone else besides Paul, Julie and myself?	25	happened at the trial. He repeatedly said none
-Wallyavaaa	Page 15		Page 17
1	A. On this topic, not that I can recall, Phil, at	1	of that matters. He repeatedly used cliches, the
2	this time. Maybe there is, but not that I can	2	past is behind us, the door is closed, the future
3	recall.	3	is in front of us, I need to get over it. You
4	Q. Did you ask either Mr. Wilburn or Mr. Jenkins for	4	know, we need to move on with our lives. Cliches
5	any advice or instructions as to how you should	5	repeatedly were said when I said this is what I'm
6	construct a rezoning application at that time?	6	going to do.
7	A. I did not ask them how I should do that. I said,	7	MR. HANSON: Let me ask, Phil, are you
8	"This is what you said you wanted in the trial or	8	asking did he have putting aside what the
9	in the transcripts or in the depositions," or,	9	rezoning was based on, are you asking did he have
10	"This is what the written statements say. Here	10	a reaction to the fact that there was going to be
11	-	11	a new rezoning application presented period?
12		12	MR. GOLDSMITH: Yes,
13		13	
14		13 14	MR. HANSON: Do you understand? THE WITNESS: I don't understand his question. MR. HANSON: Just put aside the fact you said it was based on the trial. I think the question is did he have a reaction to your advising him that you were going to be submitting a new rezoning application? THE WITNESS: Other than the reaction I gave you? I don't understand the question. BY MR. GOLDSMITH: O Did he make any comment either positive or
15	-	15	question.
16		15 16	MR. HANSON: Just put aside the fact
17		17	you said it was based on the trial. I think the
18		18	question is did he have a reaction to your
19		19	advising him that you were going to be submitting
20		19 20	a new reconing application?
20 21	-	20 21	a new rezoning application?
21 22		21 22	THE WITNESS: Other than the reaction I
23		22 23	gave you? I don't understand the question.
23 24		⊿3 24	BY MR. GOLDSMITH:
24 25			Qi Dia ne mane any comment entrei positive of
20	used. Do you recall the words that he used?	25	negative to you submitting a new rezoning

5 (Pages 14 to 17)

Jon Whitman June 15, 2010

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		1	
	Page 18		Page 20
1	application?	1	A. I handed him the drawing. That might not even be
2	A. He said with my attitude he couldn't support me.	2	the right word. He was given the drawing, not
3	Q. And other than that, he didn't comment on what	3	Walt. He was given the drawing and I said and
4	your new proposed plan was going to be, is that a	4	I said I've hired DuBose, you know, and I said I
5	fair statement?	5	can't remember the guy's name right now and he
6	A. Comment on	6	looked at the side and he said, "Oh, I know John
7	Q. Let me ask a foundational question. Did you	7	Sperry."
8	disclose to him at that meeting this is what —	8	And so I said, "I could call you up
9	this is what I propose to submit to the Township	9	with the thing and he tells me John Sperry
10	in terms of a rezoning application?	10	assures me this would all work and I don't have
11	A. I brought in a drawing, I brought in a DuBose	11	worthless land. This would actually be
12	drawing, yes.	12	developable on all the rules and he has that"
13	Q. And did that – I'm going to show you again –	13	and I said that to Dennis.
14	well, look at what's been marked as Exhibit 1.	14	Q. That's what John Sperry had said to you, that you
15	You have that in front of you.	15	had developable land, that it could be developed?
16	There are two DuBose drawings there	16	A. It was a legitimate piece.
17	and these drawings you may not have had at that	17	Q. Did Dennis Jenkins offer any comments to you
18	time because the first date on this is June 16	18	based on that, what you presented to him at the
19	and then there's some revisions after that date	19	meeting and the statement you made at the
20	on both of these.	20	meeting?
21	So based on your prior testimony, you	21	A. Which statement?
22	probably didn't have these drawings at that	22	Q. Well, with respect – did he have any comments on
23	meeting.	23	the drawing?
24	A. Correct.	24	A. He did.
25	Q. Did you have a similar drawing at that meeting	25	Q. Do you recall what those comments were?
	Page 19		Page 21
1	that you met with Mr. Wilburn and Mr. Jenkins?	1	A. I can't recall his comments. He had a number of
2	A. Similar meaning?	2	questions and I could not answer his questions
3	Q. Similar showing how you proposed the rezoning of	3	and I referred him.
4	the Whitman Ford property?	4	Q. To?
5	A. Different but a proposed, yes.	5	A. John Sperry.
6	Q. In other words, did it show the RME and the RM-2	6	Q. And did he have any comment in response to your
7	adjacent to the Indian Acres property?	7	statement that Mr. Sperry had assured you that
8	A. To my knowledge without that document being in	8	you had developable land and it could be
9	front of me, Phil to my knowledge it did and	9	developed in conformance with the rules?
10	to my knowledge it showed buildings on those	10	A. What's your question again?
11	properties, to my knowledge.	11	Q. Did Mr. Jenkins have any response to your
12	Q. All right and I take it that well, let me ask	12	statement to him that Mr. Sperry had assured you
13	the question.	13	that you had a piece of developable land that
14	Did Mr. Wilburn have any comment with	14	could be developed in conformance with the rules?
15	respect to that drawing that this looks good or I	15	A. He asked me a number of questions about that. 1
16	don't like this and here's why or anything of	16	could not answer them and my response was, "You
17		17	need to talk to John Sperry."
18	A. On the drawing he had no that I can recall he	18	Q. Was anything else discussed at that meeting with
19	had no comment.	19	Mr. Wilburn and Mr. Jenkins at that time if you
20	Q. Let's focus in on what Mr. Jenkins had to say, if	20	recall?
21	anything. With respect to the drawings that you	21	A. Not about this, no.
	submitted at that meeting did you ask Mr. Jenkins	22	Q. Not about the map or about the rezoning in
22		F	
22 23		23	general?
		23 24	general? A. Yes, in general the rezoning.

6 (Pages 18 to 21)

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	Page 22		Page 24
1	A. I think we asked, "How are you?" I just think	1	It was very detailed.
2	the general	2	I cannot remember the details. They
3	Q. Fair enough. I'm just trying to find out if you	3	asked me questions about, you know, you had three
4	provided Mr. Wilburn or Mr. Jenkins with any	4	different things. You had what I call senior
5	additional information other than the drawing and	5	housing, apartment buildings and offices. That's
6	if they responded with any information that would	6	my words. That's not what you guys talk about,
7	provide you any direction one way or the other,	7	but you had that.
8	whether it would be negative or positive, in	8	And they had different things about
9	terms of your plan to seek a rezoning of the	9	each of those and it was really their
10	Whitman Ford parcel?	10	questions to me really were developer-type
11	A. I believe we left the meeting that Dennis was	11	questions, what did I think about this, what did
12	going to contact DuBose and that was effectively	12	I think about that, what do you want to do about
13	on the discussion in the spring of 2008 what	13	· •
14	happened.	14	this, what do you want to do about that. And I did not know the technical
15			
15	Q. Do you know whether or not Mr. Jenkins and Mr. Sports had only discussions concorning your	15	answers to that. I'm not a developer. I have no
17	Mr. Sperry had any discussions concerning your	16	idea how to do this. And they would ask me and I
	conceptual plan?	17	would say to them, "What do you think?"
18 19	A. Phil, now again, this is all the truth, nothing but the truth. When you ask me this, I started	18	And, "What do you think? I mean, I
	•	19	don't know how to do this." So I never really
20	with John Sperry. Sometime in here this Efrem	20	even effectively answered their questions that
21	guy took over.	21	Dennis brought up and there were numerous things
22	I do not know when and which person	22	over this period of time from there were
23	Dennis talked to and I cannot answer your	23	numerous things and there were revisions, I think
24	question exactly on this topic.	24	you know that, Phil, there was revisions on these
25	Q. Did either Mr. Sperry or Mr. Tennenbaum contact	25	things.
	Page 23		Page 25
1	you to advise you that Mr. Jenkins had made some	1	And I couldn't even answer all the
2	comments on the conceptual plan and that perhaps	2	revisions because I didn't even understand them
3	some changes were being requested or suggested?	3	all.
4	Did you have any conversations with	4	Q. Let me ask you this. There's been testimony
5	either of those gentlemen concerning that?	5	during some of the depositions that have been
6	A. Yes.	6	taken already in this case that perhaps the
7	Q. And do you recall which of those gentlemen you	7	initial conceptual plan showed a width for the
8	would have talked to?	8	RME parcel and the RM-2 parcel from the west
9	A. Again, I think I talked to both of them because	9	boundary line of the Whitman Ford parcel going to
10	it got handed off.	10	the east showed a width of 250 feet I believe.
11	Q. What was communicated to you by either Mr. Sperry	11	Do you recall that?
12	or Mr. Tennenbaum with respect to the comments	12	A. Yes.
13	made by Dennis Jenkins after he reviewed the	13	Q. And I believe there's been testimony that there
14	conceptual plan?	14	was at least a suggestion by Mr. Jenkins that you
15	A. Can you ask that again?	15	might want to consider enlarging that width.
16	Q. Sure. It sounds like either John Sperry or Efrem	16	Do you remember having any discussions
17		17	with either Sperry or Tennenbaum regarding that?
18	this with Dennis Jenkins. He's made some	18	A. Yes.
19		19	Q. And I believe in fact later on a conceptual
20		20	 was at least a suggestion by Mr. Jenkins that you might want to consider enlarging that width. Do you remember having any discussions with either Sperry or Tennenbaum regarding that? A. Yes. Q. And I believe in fact later on a conceptual drawing it is shown that the width of those RME and RM-2 parcels was enlarged from 250 feet and when I say "width", I mean from west to east to 286 feet. Is that your recollection? A. That's what I applied for.
21		21	and RM-2 parcels was enlarged from 250 feet
22	14 ¹⁰	22	and when I say "width", I mean from west to east
23		23	- to 286 feet.
24	÷ ÷	24	Is that your recollection?
25		25	A. That's what I applied for.

7 (Pages 22 to 25)

Jon Whitman June 15, 2010

			T		1
		Page 26	1	Page 28	
	1	Q. So what you ultimately applied for for those	1	Q. And then that road does that road also provide	
	2	parcels was a width from west to east of 286	2	access and/or frontage to the parcel to the east	É.
	3	feet, correct?	3	of the RME and the RM-2 parcel which was proposed	í l
	4	A. That's my understanding of the width, yes.	4	to be C-2?	
	5	Q. And was that - is it also your understanding	5	MR. HANSON: Object to foundation.	
	6	that that was done to accommodate the conceptual buildings that might someday be aparted on these	6	BY MR. GOLDSMITH:	
	7	buildings that might someday be erected on those	7	Q. As shown on that drawing in Exhibit 1?	ſ
	8	parcels? A. It was	8	A. Maybe I don't Q. Well you see where the read is easin extending	ĺį – – – – – – – – – – – – – – – – – – –
l	9 10		10	Q. Well, you see where the road is, again, extending from Storns Boad and then it winds around to	ĺ /
	11	MR. HANSON: Hold on. Let me just object to the foundation. Go ahead, you can	11	from Sterns Road and then it winds around to	í '
	12	•	12	Lewis Avenue, correct? A. Correct.	í '
	13	A. It was definitely done in this process, this time	13	 Q. And you've testified that it would provide access 	ſ '
	14		14	and frontage to the PBO, RM-2 and RM-3 parcels,	(
	15		15	correct?	4
	16		16	A. Correct.	l l
	17		17	Q. And would it also provide access to this middle	ĺ .
	18		18	parcel, the 8.28 parcel that was proposed to be	é '
	19		19	C-2?	é '
	20	that?	20	MR. HANSON: Well, let me just explain	ê '
	21	A. Yes.	21	my objection on this and I think "access" is a	4
1	22	Q. And that road extends from Sterns Road out to	22	little bit of a legal term.	Á !
	23	-	23	In addition, the road itself was	, I
1	24		24	conceptual as I think you know, but I think also	á '
	25	Q. And that provides access to the three westernmost	25	particularly on the middle parcel we talk about	
		Page 27		Page 29	
	1	parcels, would that be a fair statement?	1	it as a separate parcel for the rezoning	
	2	MR. HANSON: Object to foundation.	2	purposes, but in reality that parcel may or may	Å
	з	A. Yeah.	3	not have been joined with there's an existing	
1	4	BY MR. GOLDSMITH:	4	C-2 that already fronts on Sterns Road.	i i
	5	Q. In the three westernmost parcels on the Whitman	5	So I think you asking him if it	Å
	6	Ford parcel, the one farthest to the south would	6	provides access to that parcel calls for him to	Í.
1	7	be was slated to be or requested to be a PBO	7	speculate kind of completely, so that's the basis	
	8	parcel, is that correct?	в	of the objection, foundation objection.	
1	9	A. Yes.	9	MR. GOLDSMITH: Okay.	
	10	Q. And then the one immediately to the north of that	10	BY MR. GOLDSMITH:	
	11	• •	11	Q. Again, directing your attention to this road, and	
	12		12	I understand this is a conceptual drawing and	
	13		13	therefore a conceptual road.	
	14		14	If this road were actually built on the	
· · · · ·			15	Whitman Ford property it would not only provide	
			16	access to PBO, RM-2 and RME, but could also	Hanna - Canada - Cana
a franciska se			17	provide access to what was proposed to be C-2?	
	18		1.8	MR. HANSON: Same objection.	1
yaaraa shikayo shari shaa shiri (19	shown on that conceptual-parcel then would		A. It's possible, yeah.	
	20			BY MR. GOLDSMITH:	
	21		21 22	Q. And it's also possible I think, as Mr. Hanson indicated that access could be achieved from	· · · · · · · · · · ·
		MR. HANSON: I'll object to foundation.	22	indicated, that access could be achieved from	l.
•	22 23	-	` ^ ?	Tamia Arrown if you combined a C-3 narrol with	
	23	A. Yeah, you had to have frontage off a road to	23 24	Lewis Avenue if you combined a C-3 parcel with that C-2 parcel, would that be accurate as well?	
· · ·	23 24	A. Yeah, you had to have frontage off a road to develop them.	24	that C-2 parcel, would that be accurate as well?	
	23 24	A. Yeah, you had to have frontage off a road to develop them.	1		

8 (Pages 26 to 29)

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Jon Whitman June 15, 2010

	Page 30		Page 32	
1	misstating my objection. I was talking about the	1	officials or representatives?	
2	parcel on Sterns which is actually would have	2	A. Personally?	
3	had the same zoning and as it sits today I think	3	Q. Personally.	
4	is part of the same there's no land division	4	A. No.	
5	there, even though it's split zoning.	5	Q. Did anyone acting on your behalf have any	
6	MR. GOLDSMITH: I think you're	6	meetings with any township representatives, if	
7	accurate.	7	you know?	
8	MR. HANSON: And so that's why,	8	A. Yes,	
9	particularly when you talk about the middle	9	Q. Who would that have been?	
10	parcel, I know it makes sense for the rezoning	10	A. The DuBose guys.	
11	application. I'm not sure it makes sense when	11	Q. Anyone other than the DuBose guys?	
12	you're talking about road access.	12	A. To my knowledge, no.	
13	But foundation objection, you can go	13	Q. And do you know who the DuBose guys whether it	
14	ahead and answer.	14	was John or Efrem met with prior to the	
15	A. What was your question, Phil?	15	submission of your application?	
16	BY MR. GOLDSMITH:	16	A. I couldn't tell you who they met with.	
17	Q. If you – let's go at it from both directions.	17	Q. Have they indicated to you one way or the other	
18	If you joined what you proposed to be C-2, the	18	whether they met with anyone other than Dennis	
19	middle parcel, which has been sometimes referred	19	Jenkins for instance?	
20	to as the middle parcel. It's an 8,28 acre	20	A. I think they had contact with Karen Kincaid (sp).	
21	parcel.	21	 Q. Do you believe or have any information that would 	
22	If you joined that with the parcel on	22	indicate they had contact with any Planning	
23	Lewis Avenue, that too could provide access to	23	Commission members?	
23 24	that parcel, is that fair statement?	24	A. I don't have any information.	
24 25	A. I would say yes.	25	Q. Or board members?	
<u> </u>	······································	 		
	Page 31			
1	-		Page 33	
1	Q. And likewise, and as Mr. Hanson stated, this	1	A. I don't have any information.	
2	Q. And likewise, and as Mr. Hanson stated, this parcel, this middle parcel, is split zoned.	1 2	 A. I don't have any information. Q. In connection with your rezoning application or 	
2 3	Q. And likewise, and as Mr. Hanson stated, this parcel, this middle parcel, is split zoned. Access could be achieved from Sterns Road as	1	 A. I don't have any information. Q. In connection with your rezoning application or even considering to go forward with a rezoning, 	
2 3 4	Q. And likewise, and as Mr. Hanson stated, this parcel, this middle parcel, is split zoned. Access could be achieved from Sterns Road as well, is that a fair statement?	1 2	 A. I don't have any information. Q. In connection with your rezoning application or even considering to go forward with a rezoning, did you at any time commission a market demand 	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. And likewise, and as Mr. Hanson stated, this parcel, this middle parcel, is split zoned. Access could be achieved from Sterns Road as well, is that a fair statement? A. Yeah. Phil, I just want to say I do not agree MR. HANSON: Jon, there's no question. BY MR. GOLDSMITH: Q. All right. Some reference was made during the depositions to not yesterday, but I believe in a previous one of the previous depositions, perhaps Mr. Jenkins' to Rudolph Libby Company. Did you consult with Rudolph Libby or did Rudolph Libby play any role in assisting you in putting together your rezoning application or conceptual drawings? A. No. Q. You indicated that you had this meeting with 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. I don't have any information. Q. In connection with your rezoning application or even considering to go forward with a rezoning, did you at any time commission a market demand study for this property or for any portion of the Whitman Ford property to determine what demand there might be for the different zoning classifications that you were proposing? A. Did I? Q. Did you? A. Personally? Q. Did you or anyone well, did you personally? A. No. Q. Did anyone on behalf of Whitman Ford Company perform any type of market demand study? A. No. Q. Are you aware of any market demand studies being performed for any portion of the Whitman Ford property? A. The Township did a study of what citizens of the 	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Q. And likewise, and as Mr. Hanson stated, this parcel, this middle parcel, is split zoned. Access could be achieved from Sterns Road as well, is that a fair statement? A. Yeah. Phil, I just want to say I do not agree MR. HANSON: Jon, there's no question. BY MR. GOLDSMITTH: Q. All right. Some reference was made during the depositions to not yesterday, but I believe in a previous one of the previous depositions, perhaps Mr. Jenkins' to Rudolph Libby Company. Did you consult with Rudolph Libby or did Rudolph Libby play any role in assisting you in putting together your rezoning application or conceptual drawings? A. No. Q. Did you use Rudolph Libby in any fashion to assist you with your rezoning application? A. No. Q. You indicated that you had this meeting with Mr. Jenkins, and Mr. Wilburn in the spring of 2009 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. I don't have any information. Q. In connection with your rezoning application or even considering to go forward with a rezoning, did you at any time commission a market demand study for this property or for any portion of the Whitman Ford property to determine what demand there might be for the different zoning classifications that you were proposing? A. Did 1? Q. Did you? A. Personally? Q. Did you or anyone well, did you personally? A. No. Q. Did anyone on behalf of Whitman Ford Company perform any type of market demand study? A. No. Q. Are you aware of any market demand studies being performed for any portion of the Whitman Ford property? A. The Township did a study of what citizens of the village of Temperance do and this was done under 	
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Jon Whitman June 15, 2010

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1	it. Even if they reject it, you've given them	1	Q. Okay. You had indicated to them that you were	
2	something.	2	going to submit a rezoning application and that	
3	And his advice was show something and I	3	was going to be based at least in part on what	
4	said okay.	4	had transpired in the prior trial, correct?	
5	Q. So you showed those three parcels, the PBO, the	5	A. Correct.	
6	RM-2 and the RME, those proposed parcels	6	Q. And was there any discussion at that time, either	
7	obviously, correct?	7	on your part or on Dennis Jenkins' part, what the	
8	Okay, but he did not advise to show	8	Master Land Use Plan called for on that parcel or	
9	anything else on what you requested to be rezoned	9	any portion of the parcel, the Whitman Ford	
0	from R-2A to C-2?	10	parcel?	
1	A. Correct.	11	A. No.	
2	Q. Or the other requested rezonings?	12	Q. When you met with Mr. Jenkins and Mr. Wilburn was	
3	A. Correct.	13	there any discussion at that time about what	
4	Q. I asked you about whether a market demand	14	consideration either you or any of your	
5	whether you had done a market demand study or	15	professionals, I guess the DuBose people, had	
6	anyone on your behalf had done.	16	given to the impact, whether it be positive,	
7	How about any type of a feasibility	17	negative or otherwise, that the proposed	
8	study or economic analysis?	18	rezonings would have on adjacent properties or	
9	A. There were no studies.	19	properties in the general area?	
0	Q. None that you commissioned or requested to be	20	MR. HANSON: Let me just interpose an	
1	commissioned, correct?	21	objection. I assume your questions, Phil, are	
2	A. No studies at all that I wanted.	22	asking independent of what was stated by the	
3	Q. Is this parcel still being actively marketed by a	23	experts at the trial?	
4	broker?	24	MR. GOLDSMITH: Yes.	
5.	A. Yes.	25	MR. HANSON: And I guess this goes back	
	Page 39		Fage 41	
ı	Q. And is that still Steve Lennox?	1	to the land use question as well, simply because	
2	A. Yes.	2	I think those issues were some of the things that	
3	Q. And has Steve Lennox – to assist him in the	3.	were testified about. I think your question is	
4	brokerage of this Whitman Ford parcel, has he	4	independent of talking about what those	
5	conducted any studies that you know of that would	5	transcripts showed was there any discussion and	
6	assist him in successfully marketing this	6	that sort of thing?	
7	property for the Whitman Ford Company?	7	. MR. GOLDSMITH: Right.	
В	A. That I know of?	8	BY MR. GOLDSMITH:	
9	Q. That you know of?	9	Q. So I'll ask the question. I'm not referring to	
D	-	10	the trial transcripts or the deposition	
l.		11	transcripts that were taken in advance of the	
2	ê ê	12	prior trial, but was there any discussion held on	
3		13	what impact, whether it be positive, negative or	
_		14	neutral, that your proposed rezonings would have	
		15	on any of the adjacent parcels or parcels in the	
5 [·]		-	0	
5	have you commissioned any such studies, whether	16	area?	
5	have you commissioned any such studies, whether it be marketing, feasibility or economic studies?	17	A. At that meeting?	
5 5 7 3	have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No.	17 18 ·	A. At that meeting?	er y Vice
5 5 7 3	have you commissioned any such studies, whetherit be marketing, feasibility or economic studies?A. No.Q. When you sat down that first time in the spring	17 18 19 -	 A. At that meeting? Q. At that meeting. A. No. 	er y S CS R est
5 5 7 3 9	 have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No. Q. When you sat down that first time in the spring of 2008 with Jenkins and Wilburn was there any 	17 18 19 20	 A. At that meeting? Q. At that meeting. A. No. Q. Have you since had any conversations with any 	
5 5 7 3 9 1	 have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No. Q. When you sat down that first time in the spring of 2008 with Jenkins and Wilburn was there any discussion at that time, if you recall, about the 	17 18 19 20 21	 A. At that meeting? Q. At that meeting. A. No. Q. Have you since had any conversations with any township representatives, whether it be an any township representatives. 	
5 7 8 9 0	 have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No. Q. When you sat down that first time in the spring of 2008 with Jenkins and Wilburn was there any discussion at that time, if you recall, about the Master Land Use Plan, whether it be the Master 	17 18 19 20 21 22	 A. At that meeting? Q. At that meeting. A. No. Q. Have you since had any conversations with any township representatives, whether it be an elected official, an appointed official such as a 	
4 5 7 8 9 0 1 2 3	 have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No. Q. When you sat down that first time in the spring of 2008 with Jenkins and Wilburn was there any discussion at that time, if you recall, about the Master Land Use Plan, whether it be the Master Land Use Map or the narrative that accompanies – 	17 18 19 20 21 22 23	 A. At that meeting? Q. At that meeting. A. No. Q. Have you since had any conversations with any township representatives, whether it be an elected official, an appointed official such as a Planning Commission member or a staff member, 	
5 7 8 9 1 2	 have you commissioned any such studies, whether it be marketing, feasibility or economic studies? A. No. Q. When you sat down that first time in the spring of 2008 with Jenkins and Wilburn was there any discussion at that time, if you recall, about the Master Land Use Plan, whether it be the Master Land Use Map or the narrative that accompanies – or that is part of the Master Land Use Plan? 	17 18 19 20 21 22	 A. At that meeting? Q. At that meeting. A. No. Q. Have you since had any conversations with any township representatives, whether it be an elected official, an appointed official such as a 	на () 20 - 20 20 - 20 20 - 20 20 - 20 20 - 20 20 20 - 20 20 20 20 20 20 20 20 20 20 20 20 20 2

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	1	neutral, on any of the adjacent land?	11	with different people from the trial, just my
	2	A. No.	2	understanding of it was PUD was either, A,
	3	Q. Did you consult I know we've gone over this.	3	impossible, or, B, we've done this one with the
	4	You talked with and consulted with DuBose	4	Township and got nowhere.
	5	associates John Sperry and Efrem Tennenbaum –	5	And I didn't have anybody buying this
	6	and I may have already asked you this and if I	6	property and I did have trial testimony what
	7	did, forgive me - did you consult with a	7	these different things should be.
	8	professional planner prior to submitting your	8	Q. Okay. I'm going to show you what's been
	9	rezoning application?	9	previously marked in prior depositions, actually
	10	A. No.	10	what I'm going to show you is what was marked as
	11	Q. Have you at any time during the process from the	11	Exhibit 3 on December 22, '09 in the Dennis
	12	spring of 2008 up until this time consulted with	12	Jenkins deposition.
	13	a professional planner about your rezoning	13	And this also is one of the DuBose
	14	application or what has happened through the	14	drawings. If you could take a look at that and
	15	procedure with your rezoning application?	15	we'll sit this aside.
	16	A. No.	16	Is that exhibit, Exhibit 3, I believe
	17	Q. Has anyone to your knowledge on your behalf	17	that up in the right-hand corner, is that dated
	18	consulted with a professional planner?	18	June 16, '08?
	19	A. No.	19	A. I think it's 16, either 16 or 18, Phil, yeah.
	20	Q. Did you at any time consider submitting your	20	Q. Now, is that - what was previously marked as
	21	proposed rezoning as a PUD rezoning as opposed to	21	Exhibit 3 in the Jenkins dep, is that the first
	22	doing it the way you did?	22	drawing that was done by DuBose, and the reason I
	23	A. What's your question?	23	ask that is I think it depicts the RME and the
	24	Q. Did you prior to submitting your rezoning	24	RM-2 parcels has being a width of 250 feet from
	25	application in the form and fashion that you did,	25	west to east.
	************	Page 43		Page 45
	1	did you at any time consider submitting a	1	MR. HANSON: Object to the foundation.
	2	rezoning application as a PUD rezoning, planned	2	A. It looks like without a magnifying glass it's
	3	unit development rezoning?	3	250.
	4	A. No.	4	BY MR. GOLDSMITH:
	5	Q. Why not?	5	Q. And I think the testimony was that Dennis Jenkins
	6	A. My understanding, Phil, was there's three or four	6	had suggested that those parcels should be
	7	or five reasons it was not viable.	7	widened from 250 to 286 feet, is that your
	8	Q. And what reasons were given to you that it was	8	understanding?
	9	not viable?	9	A. Yes.
	10	A. For one thing, we met with you once and	10	Q. And in fact that was accomplished in a later
	11	effectively the Wal-Mart was a PUD. We had no	11	DuBose drawing, is that your understanding?
_ · ·	12	underlying zoning and it was rejected.	12	A. Yes.
	13	Secondly, my understanding on a PUD was	13	Q. I think that may even be shown on the same
	14	it only lasts for a while. In other words, it	14	exhibit.
	15	reverts back at some time in the future.	15.	MR. HANSON: I think it's Exhibit 4.
·• ,	16	Thirdly, my understanding was if you go	16	BY MR. GOLDSMITH:
×	17 -	· · · · · · · · · · · · · · · · · · ·	17	Q. That is shown on what was previously marked as
i i tera <u>n</u> de present i	18	along with the site plan. You have all these	1 1 1	Exhibit 4 of the Jenkins deposition. I'll show
مست التركيب مي	19	things you have to come up with and I didn't have	19 -	you that. I think as you stated yesterday
in a sister i	20	them.	20	there's two Z-1s here but if you could take a
s and the second	21	And lastly, my understanding was it's	21	look at that Exhibit 4.
a an a channa a c	22	much more onerous to do a PUD. You have much	22.	That shows a width of the RM-2 and the
	23	more I don't know, you can't develop all the	23	RME parcels as 286, is that correct?
	24	land. You got much more open space, etc.	24	A. I think it says 286. I struggle with these
	25	So from my understanding in discussions	25	little numbers.
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12 (Pages 42 to 45)

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Page 46		Page 4
Q. Yeah, they're hard to read. And then also on	1	Q. And is it fair to say that whoever might purchase
	2	that property may or may not develop the western
what we were talking about in terms of what was,	3	parcels?
I believe, submitted with your rezoning	4	A. I couldn't tell you what they would do on any of
application, the conceptual drawing showing the	5	them.
PBO, RME and RM-2 buildings, is that correct?	6	Q. At one point in time I think you proposed a
A. Yes.	7	buffer along the western edge of the Whitman Ford
O. You had indicated that one of the gentlemen from	8	property not in connection with this current
	9	litigation or this – or the rezoning application
	10	that you submitted, but in the prior litigation,
	11	is that fair statement?
	12	MR. HANSON: Are you asking about the
	1	settlement negotiations that I've been told we
-	ł	can't ask questions about?
	ł	MR. GOLDSMITH: No, I think I'm asking
		about what was presented at the public meeting
	1	that was held at the high school in terms of what
-		proposed land uses could go on that parcel.
		MR. HANSON: I'm going to let him
	1	answer the question, but fair enough, go
		ahead, you can answer the question. BY MR. GOLDSMITH:
	1	
		Q. In the prior litigation there was obviously a lot
		of discussion concerning a Wal-Mart or another
cast of those parcels?	40	retail organization coming in and constructing a
Page 47		Page 49
A. I specifically picked those, Phil, based upon	1	store on the Whitman Ford property, correct?
what happened in the trial.	2	A. Yes.
Q. Fair enough. But my question to you, and	3	Q. In connection with that discussion was there
obviously the testimony in the trial speaks for	4	discussion relative to setting aside a buffer on
itself. It's there for anybody to see who wants	5	the western edge of the Whitman Ford property to
to see it.	6	buffer that commercial use from the existing
But setting that aside, and I	7	adjacent residential parcels that existed just
understand you specifically picked those zoning	8	beyond the western border of the Whitman Ford
classifications based on your interpretation of	9	property?
what was said in the trial or what was said in	10	A. Whatever was presented at that meeting was
the trial, do you have actual plans of using	11	presented, Phil.
		Q. What's your recollection of what was presented?
	13	A. On what I mean that was a detailed drawing.
	14	Q. On whether okay, whether there would be a
··		buffer and what the width of that buffer would
		be?
rrrr		A. I don't remember the width.
Para-and the second sec		OYou remember that a buffer was proposed though?
		A. I think there was buffer proposed, yes.
		Q. Were any other changes made to the DuBose drawing
J	21	that you're aware of other than enlarging the
	22	width from west to east of the RME and the RM-2
		CARDE & DIAL (FOR CONDUCT OF DIG ANTIRY AND THE INPL-2
	23	narcels?
rezonings to assist you or Mr. Lennox in	23 24	parcels? A. Yes.
	 Q. Yeah, they're hard to read. And then also on Exhibit 4 on the third page of Exhibit 4 it shows what we were talking about in terms of what was, I believe, submitted with your rezoning application, the conceptual drawing showing the PBO, RME and RM-2 buildings, is that correct? A. Yes. Q. You had indicated that one of the gentlemen from DuBose and Associates, whether it was John Sperry or Efrem Teanenbaum, indicated to you that it would be a good idea to show something to the Township in terms of what could conceptually be constructed on the Whitman Ford parcels. Do I understand – is that a fair statement? A. On the ones along here, yes. No, not on the whole thing. Q. But on the western boundary, correct? A. Yes. Q. Let me ask you this, just a very direct and pointed question. Are you actually planning to build RME or RM-2 uses or PBO uses on those parcels as opposed to just setting that property aside as a buffer if there's development to the east of those parcels? Page 47 A. I specifically picked those, Phil, based upon what happened in the trial. Q. Fair enough. But my question to you, and obviously the testimony in the trial speaks for itself. It's there for anybody to see who wants to see it. Bat setting that aside, and I understand you specifically picked those zoning classifications based on your interpretation of what was said in the trial or what was said in the trial, do you have actual plans of using those three parcels to actually construct those types of uses on the setern boundary of the Whitman Ford property? A. I would not develop those, no. I have no personal plans to be a developer to do those parcels, no. Q. All right. At one point – well, strike that. Is it your plan to – was it your plan when you came to the Township to seek the 	Q. Yeah, they're hard to read. And then also on 1 Exhibit 4 on the third page of Exhibit 4 it shows 2 what we were talking about in terms of what was, 3 I believe, submitted with your rezoning 4 application, the conceptual drawing showing the 5 PBO, RME and RM-2 buildings, is that correct? 6 A. Yes. 7 Q. You had indicated that one of the gentlemen from 8 DuBose and Associates, whether it was John Sperry 9 or Efrem Teanenbaum, indicated to you that it 10 would be a good idea to show something to the 11 Township in terms of what could conceptually be 2 constructed on the Whitman Ford parcels. 13 Do I understand – is that a fair 14 statement? 15 A. On the ones along here, yes. No, not on the whole thing. Q. But on the western boundary, correct? 18 A. Yes. 19 Q. Let me ask you this, just a very direct and 20 pointed question. Are you actually planning to 21 build RME or RM-2 uses or PBO uses on those 22 parcels as opposed to just setting that property 23

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	Page 50		Page 52
	 A. The original drawing, Phil, this roadway got 	1	because I think you changed the question. Plans
	2 changed.	2	that he's considered or any plan that any planner
	3 Q. And do you know why?	3	could develop at any point in time?
	4 A. Again, in the conversations they had with Dennis	4	MR. GOLDSMITH: Let's ask it in two
	5 Jenkins he had questions about this and they had	5	parts.
	6 whatever and the roadway got changed.	6	BY MR. GOLDSMITH:
	7 Q. Do you know in what particulars it was changed?	7	Q. Plans that you have considered?
	 A. I believe if you go back to Dennis' file I 	8	A. No, I haven't considered any plans because I'm
	9 believe these corners got more rounded out,	9	not a developer.
1	0 they're less severe, they're less sharp, whatever	10	Q. And has there been any discussion with John
1	1 you guys call it, Phil.	11	Sperry or Efrem Tennenbaum about other plans that
1	2 I think it's wider than it once was,	12	could be developed to provide access to the RME
1	3 but I could be wrong on both of those. But this	13	parcel or the RM-2 parcel?
1	4 roadway got changed besides just the width.	14	A. No.
1	5 Q. Would you agree with me that if this road was not	15	Q. The PBO parcel that's situated in the southwest
וב	6 constructed that the RME parcel that you proposed	16	corner of the Whitman Ford property, that has
1	7 would be landlocked?	17	access on Sterns Road of course, correct?
1	8 A. That's my opinion, yeah.	18	A. It sits next to Sterns Road, yeah.
1	9 Q. And the same would hold true for the RM-2 parcel,	19	Q. Was there ever any discussion or talk with either
20	o if this road was not constructed that would be	20	John Sperry or Efrem Tennenbaum about providing
2	1 landlocked, that parcel?	21	access to the RME parcel or the RM-2 parcel
2:	A. Landlocked, Phil, that it doesn't have access to	22	through any road network developed on what was
2:	3 Sterns or landlocked that you couldn't put an	23	proposed to be the C-2 parcel?
24	4 apartment there? Landlocked	24	MR. HANSON: There's a problem with
2:	Q. Landlocked in terms two things in terms of	25	your question.
	Page 51	1	Page 53
	access either to Sterns or Lewis.	1	A. I think it's there now.
	2 MR. HANSON: You're talking, I assume,	2	MR. HANSON: I think it misstates
3	direct access, not access through for instance	3	what's going on.
4	the PBO parcel or something like that?	4	A. I think it's on C-2 now.
	MR. GOLDSMITH: Correct, direct access.	5	BY MR. GOLDSMITH:
6	5 A. Direct access, yeah.	6	Q. Maybe I don't understand what your response is.
	BY MR. GOLDSMITH:	7	You think it's on C-2 now. What do you mean by
8	Q. Okay, now, I suppose if some other sort of road	8	that?
9		9	A. This road on the proposed C-2 is on the C-2. It
10	-	10	is not on the 280 feet, whatever this is exactly,
11	the RM-2 parcel, is that your understanding?	11	286, it's not on there. It's on the commercial
12		12	now so it goes through the commercial now.
13	testimony "landlocked" because this is not	13	Q. All right, I understand. So if this conceptual
14	· · · · · · · · · · · · · · · · · · ·	14	road was actually constructed as shown on the
15	• – –	15	exhibit that we're looking at, the one we're
16		16	looking at now is Exhibit 4 of the Jenkins dep,
17		17	it's your opinion that that's actually on what
18		18	you propose to be the C-2 parcel, is that
19		19.	accurate?
20		20	A. Yes.
	possible plans that you've considered that could	21	Q. Any other changes that you know of that were made .
		22	to the BuBose drawings?
23	•	23	MR. HANSON: Can I ask your time frame
24		24	there, Phil? Are you talking about from the very
25	•	25	beginning to the final second package submitted
		1	

14 (Pages 50 to 53)

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1	for rezoning?	1	A. No.
2	MR. GOLDSMITH: Well, let's start from	2	Q. Did any of those earlier editions show any
3	the very yeah, the total time frame, from the	3	conceptual development on the C-2 or the C-3
4	very beginning until the rezoning application was	4	parcels that you proposed?
5	submitted to the Township.	5	A. No.
6	MR. HANSON: I'll just state that the	6	Q. Any other documents, DuBose documents, drawing
7	documents speak for themselves, but go ahead.	7	other than those earlier ones that exist to your
8	BY MR. GOLDSMITH:	8	knowledge?
9	Q. You talked about the first change that was made	9	A. Documents?
10	at the suggestion I believe you testified of	10	Q. Drawings showing the conceptual plans for the
11	Dennis Jenkins was widening the RM-2 and RME from	11	property?
12	250 to 286 feet, correct?	12	A. What's your question again? We're talking about
13	A. Yes.	13	drawings, right, that's your question?
14	Q. And then you talked about another change also	14	Q. You just testified that there were some earlier
15	apparently at the suggestion of Dennis Jenkins on	15	drawings other than what's on the table in front
16	the roadway that extends from Sterns Road to	16	of us now. You testified about that.
10 17	Lewis Avenue, correct?	17	Now my question is, are there any other
18	A. I think they were simultaneous, not a second	18	drawings that were done after these that we have
	-	19	on the table in front of us now showing
19	change.	20	conceptual plans for the Whitman Ford property?
20	Q. So we know about those two simultaneous changes.	21	MR. HANSON: Object to the foundation
21	Were there any other changes made to the DuBose	22	and the form.
22	drawings that you're aware of?	1	
23	A. I think they were and I can't tell you what they	23	A. I believe there's drawings that are in the large
24	were because there were those technical questions	24 25	blueprint size that are not whatever size this is. I believe there are other drawings. I
25	and I cannot answer what those were.		
	Page 55		Page !
1	Q. Are you aware of any other DuBose drawings other	1	believe they show this, but I believe there are
2	than what we have in front of us and I'll start	2	other large drawings.
3	with the ones that were attached to your rezoning	3	Q. Just larger than the ledger size that we have in
4	application which has been marked as Exhibit 1	4	
		4	front of us?
5	today and these other two exhibits, Exhibit 3 and	5	front of us? A. And I am aware of those.
5 6	today and these other two exhibits, Exhibit 3 and Exhibit 4 from the Jenkins deposition?		A. And I am aware of those.
	•	5	A. And I am aware of those.
6	Exhibit 4 from the Jenkins deposition?	5 6	A. And I am aware of those.Q. That would probably be a little bit easier for us
6 7	Exhibit 4 from the Jenkins deposition? A. Am I aware of	5 6 7	A. And I am aware of those.Q. That would probably be a little bit easier for us to read?
6 7 8	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of 	5 6 7 8	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly.
6 7 8 9	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? 	5 6 7 8 9	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning.
6 7 8 9 10	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. 	5 6 7 8 9 10	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township
6 7 8 9 10 11	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on 	5 6 7 8 9 10 11 12	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did.
6 7 8 9 10 11 12 13	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? 	5 6 7 8 9 10 11 12 13	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a
6 7 9 10 11 12 13 14	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. 	5 6 7 8 9 10 11 12 13 14	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct?
6 7 9 10 11 12 13 14	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you 	5 6 7 8 9 10 11 12 13 14 15	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part?
6 7 9 10 11 12 13 14 15 16	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? 	5 6 7 8 9 10 11 12 13 14 15 16	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes.
6 7 9 10 11 12 13 14 15 16 17	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? 	5 6 7 8 9 10 11 12 13 14 15 16 17	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. A. Yes.
6 7 8 9 110 112 113 114 115 116 117	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? 	5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. A. Yes. Q. That bears your signature? To the propertion of the properties of the property of the pr
6 7 9 10 11 12 13 14 15 16 17 18	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? A. It was our land. They were early I don't know 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 9	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. A. Yes. Q. That bears your signature? A. Yes.
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? A. It was our land. They were early I don't know what you want to call it preliminary or 	5 6 7 8 9 10 11 12 14 15 16 17 8 9 20	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. Q. Yes. Q. That bears your signature? A. Yes. Q. And it's dated July 24, 2008, correct?
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? A. It was our land. They were early I don't know what you want to call it preliminary or whatever and they were changed and they were 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 20	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. Q. Yes. Q. That bears your signature? A. Yes. Q. And it's dated July 24, 2008, correct? A. Yes.
6 7 8 9 110 111 12 13 14 15 16 17 18 19 20 21	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? A. It was our land. They were early I don't know what you want to call it preliminary or whatever and they were doing this and then 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. Q. Yes. Q. That bears your signature? A. Yes. Q. And at's dated July 24, 2008, correct? A. Yes. Q. And as we discussed before, it has the DuBose
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Exhibit 4 from the Jenkins deposition? A. Am I aware of Q. Any other drawings that were prepared by DuBose other than what we have on the table in front of us here today? A. Yes. Q. And did they pre-date the ones that we have on the table here today or did they come later? A. Pre-date. Q. And what did those drawings consist of, if you know? A. What does "consist of" mean? Q. What were they? What was on them? A. It was our land. They were early I don't know what you want to call it preliminary or whatever and they were changed and they were 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 20	 A. And I am aware of those. Q. That would probably be a little bit easier for us to read? A. Yeah, exactly. Q. Let's get back to your application for rezoning. Did you deliver the application to the Township personally, if you recall? A. I think DuBose did. Q. And apparently he had you sign it as a representative of the property owner, correct? A. This part? Q. Yes. Q. Yes. Q. That bears your signature? A. Yes. Q. And it's dated July 24, 2008, correct? A. Yes.

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	Page 58	3	Page 60
1	A. Yes.	1	Q. Let's look at that, Mr. Whitman, if you would.
2	MR. HANSON: Can I just make a	2	If you would look at that second page of that
3	procedural point, Phil?	3	exhibit, it would appear that that was received
4	MR. GOLDSMITH: Yes, you may.	4	by the Bedford Township Planning Department on
5	MR. HANSON: It appears to me that the	5	August 29, 2008.
6	drawings attached to this bear a final date of	6	Does that look right to you?
7	August 7, 2008 which is obviously after the date	7	A. That's what that stamp looks like it says, yeah.
8	that the first page of the exhibit is stamped	8	Q. And in the box up on the right-hand corner it
9	received.	9	says, "Date 8-28-08" and it's got, "Revisions
10	MR. GOLDSMITH: Yes.	10	prepared by E. Tennenbaum, Thomas DuBose and
11	MR. HANSON: I just want the record to	11	Associates" and gives some other general
12	be clear that it appears that this file was	12	information there.
13	supplemented in some fashion, so I don't want	13	So it would appear that that
14	there to be a supposition that all of this was	14	information was submitted to the Planning
15	submitted on July 25, 2008 or sometime around	15	
16	then.	16	Commission at a later date, you're right. Okay.
17	MR. GOLDSMITH: Okay. Lagree. It	17	I'm going to show you what's MR. GOLDSMITH: Let's have this marked
18	would appear that these two drawings that are now	18	as an exhibit.
19	attached to the rezoning application bear a date	19	-
20	of 8-7-08 and it says "Issued for" well, let's	20	DEPOSITION EXHIBIT 2
21	just go back up the line here.	21	Township of Bedford, aerial imagery
22	The ones that we have that are marked	1	WAS MARKED BY THE REPORTER
23	as Exhibit 1 of Mr. Whitman's deposition here	22	FOR IDENTIFICATION.
24	•	23	Q. Okay, you have in front of you what's been marked
25	today, up in the right-hand corner it says, "Issued for" and then is says, "Zoning review	24	as Exhibit 2 and is that a map that you had
~~~~~	issued for and then is says, Zoning review	25	prepared or is that a map that was prepared by
	Page 59		Page 61
1	6-16-08".	1	someone else?
2	BY MR. GOLDSMITH:	2	A. I did not prepare this.
3	Q. And let me just ask you, Jon, did you attend	3	Q. Take a look at that map. Does that map
4	prior – could this have been the date that you	4	accurately depict what your zoning application
5	had the meeting with Walt Wilburn and Dennis	5	was at the time you presented it in July of 2008?
6	Jenkins to initially talk about the possibility	6	MR. HANSON: Object to the foundation.
7	or talk about your submission of a rezoning	7	A. The layout or the I don't know, does the
8	application?	8	BY MR. GOLDSMITH:
9	A. No. Spring to me is before June.	9	Q. What your proposal was, the layout that you were
10	Q. So in any event, it says, "Issued for zoning	10	requesting on the rezoning.
11	review 6-16-08" and the next date says, "Zoning	11	A. Without the detail?
12	application" and that says "6-26-08" and then the	12	Q. Without any details such as are shown on what we
13	next date it says "Bedford Township, PC,"	13	had gone over before on the conceptual drawings?
14		14	A. Yes.
15		15	Q. All right. What I'd like to do is to go over
16		16	this map with you. Some of these questions I've
17		17	touched on. I'm going to go over it again and I
18.		18 .	think Mr. Hanson yesterday in the Adam Young
19	drawings, but I-think that's right.	19	deposition numbered these parcels or started with
20		20. • .	as Parcel Number 1 the RME parcel, and then the
21	date received stamp on the second page of the		RM-2 parcel was 2, and the PBO was 3. I'm going
		22	to follow kind of that same line.
22	The second se		
22 23	MR. GOLDSMITH: Yeah. Yeah, that	23	So in the RME parcel it says the
		23 24	So in the RME parcel it says the proposed rezoning was from R-2A to RME, 4.4

16 (Pages 58 to 61)

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				7
.	Page 62		Page 64	
1	A. Uh-huh.	1	, and put the rate by the	E.V.C.
2	Q. I'm going to ask you again, what - why did you	2	Present of the goal Bays ball them, next to	1
3	propose that particular zoning classification for	3		
4	that particular parcel?	4	er state you to reterring to the offices, that's the	1
5	A. Phil, that particular zoning application was from	5	next parcel to the south, correct, the PBO?	1000
6	the trial, the information at trial. How those	6		NI-THE N
7	in the back got put on those particular things	7	£. 100	2117
8	was discussion with DuBose because it didn't	B		el tratest
9	matter to me if the RM-2 or the RME was north or	9	e man and use and you propose when you submitted	1111
10	south of each other.	10	joe en laion found be that parcer would	
11	Q. Did DuBose or did either one of the DuBose	11	- For the materia you proposed your recoming	STATISTICS.
12	representatives suggest to you that the RME would	12	-FF	17.V.19.19
13	be better suited where it's shown on this map	13	A. Well, it's something approaching apartment houses	
14	that we're looking at?	14	and that's what was advised to me in the trial.	1
15	A. Yes. I was advised to lay it out that way.	15	Q. And, again, would it make any difference to you	PER ALAR
16	Q. Was any reason given to you by either one of the	16	if any future developer put anything on that	41 ANTES 4
17	DuBose gentlemen?	17	parcel?	10000
18	A. I cannot recall.	18	A. I was just getting it ready so I could sell it.	1000
19	Q. What proposed use did you envision for that	19	Q. So you didn't care one way or the other how that	1442543
20	parcel when you submitted your rezoning	20	parcel would be utilized, whether it would be	1007
21	application?	21	used for RM-2 or kept vacant, is that a fair	and the second se
22	MR. HANSON: Objection, asked and	22	statement?	
3	answered.	23	A. Fair.	
24	A. Something like senior housing. That's not the	24	Q. The next parcel farther to the south is the PBO	49 Marcin
25	right word here, but	25	and I'm going to ask you how was that zoning	6*4×8
	Page 63		Page 65	a ta
1	BY MR. GOLDSMITH:	1	classification selected?	119 Mar
2	Q. Some form of senior housing or elderly housing,	2	A. From the trial.	Mitma.
3	is that fair?	3	Q. And what particularly at the trial caused you to	
4	A. Yes.	4	designate that as a change from R-2A and C-2 to	
5	Q. Let's go down to the R-2A to RM-2 well, let me	5	PBO?	6
6	go back up to the R-2A parcel, R-2A to RME. You	6	A. The PBO, Phil, has to have road frontage. You	
7	said what you envisioned was something like	7	need access, you need visibility to have that.	Ì
8	senior housing.	8	Nowhere in Bedford is PBO hidden off the road.	1
9	Would it have made any difference to	9	And both DuBose and I thought you	l
0		10	absolutely have to have visibility from a road to	
1	10	11	have offices to have anybody want to do that	
2		12	because it's such a significant part of your	
3		13	advertising to have your sign.	
4		14	Q. So you believed you wanted a PBO parcel to be	
5		15	part of this rezoning, is that a fair statement?	
6		16	A. Yes.	
7		17	Q. And in consultation with DuBose that parcel was	
8.		18	chosen for that purpose?	
		19.	A. Yes:	
			Q. And what did you envision at the time you	
9		211 .		
9 0	Q. Yes.	20 21		na ta a la
9 0 1	<ul><li>Q. Yes.</li><li>A. The RM-2 specifically came out at the trial, all</li></ul>	21	submitted your rezoning application as to what	NAN AR
9 0 1 2	<ul> <li>Q. Yes.</li> <li>A. The RM-2 specifically came out at the trial, all those things, the transcripts, and in the</li> </ul>	21 22 ₋	submitted your rezoning application as to what would be built on that parcel or what it would be	19-11 a.
9 0 1 2 3 4	<ul> <li>Q. Yes.</li> <li>A. The RM-2 specifically came out at the trial, all those things, the transcripts, and in the discussion in DuBose which one do you care</li> </ul>	21	submitted your rezoning application as to what	Net go

17 (Pages 62 to 65)

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	Page 6	6		
1			Page 68	
2				
3		2		
4		3	the collaboration basically year.	
5		45	the first soft. Do you understand the	1000
6		6	1	
7	Q. I believe I heard testimony that you had - at	7		11000
8		8	and the toort, I think his question is,	19 10 10
9	rezoned from C-2 to C-3, is that accurate?	9	why did that parcel when initially submitted you had it as C-3, but then when ultimately acted on	
10	A. Yes.	10	by the Township it was requested no change.	
11	Q. And why did you envision or request - I know you	11	THE WITNESS: Why did I change it, is	
12	didn't request – why did you envision rezoning	12	that your question?	
13	that from C-2 to C-3?	13	MR. HANSON: That's the change he was	
14	A. In the previous discussions with the township	14	asking about, yes.	
15	officials they wanted a visual break along	15	A. Is that what you're asking me?	
16	they wanted a visual break along the highways so	16	BY MR. GOLDSMITH:	
17	that you wouldn't see these vast parking lots	17	Q. That's what I'm asking you.	
18	like you see over at the Kroger plaza from Secor	18	A. Why does it show that and then why did I not do	
19	Road	19	that?	
20	They wanted a break. They didn't want	20	Q. Correct,	
21	to just see asphalt. And in the C-3 zones	21	A. I got a copy of a letter from is it Adam	
22	without me getting completely flummoxed on the	22	Young.	
23	details, you can do smaller sizes and have	23	Q. The township planner?	
24 25	smaller like this one acre whatever this one	24	A. Yeah and he agreed with this and he didn't agree	
25	one and a half acre, you can do this, you can	25	with the thing along Sterns, Phil, whatever that	
	Page 67		Page 69	
1	break up these C's where in C-2 my understanding	1	acres was.	
2	was you needed 5 acre minimums and you had these	2	And I consulted with some people and	
3	lot bigger things.	3	they said I'd suggest you take it out and just go	20 20 20 20 20 20 20 20 20 20 20 20 20 2
4	So from the previous discussions on	4	with that and, you know, just leave it existing	
5	what do you guys want to see, you wanted to see	5	C-2 touching Sterns and so I changed the thing	- 12-0-1-0-12-0-1-0-12-0-1-0-12-0-1-0-12-0-1-0-1
6 7	these smaller breakups.	6	with the DuBose guys and we did that.	24 4 4 10 10
	Q. So am I correct in understanding that someone at	7	Q. All right. After Adam when Adam Young issued	
8 9	the Township, perhaps it was Dennis Jenkins,	8	his first review of your rezoning request he said	P2 302 144
9 LO	indicated to you or to your representatives at DuBose and Associates that it would be preferable	9	basically I agree with you. He said that he	
	Pupuse and Associates that it would be breferable	10		
.1		Į –	was opposed to that maybe that's not the right	
1 .2	at least to Mr. Jenkins that that not be rezoned	11	word, but - so you said you consulted with some	
.2	at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?	11 12	word, but – so you said you consulted with some people and elected to make a change.	
.2 .3	<ul><li>at least to Mr. Jenkins that that not be rezoned</li><li>to C-3, is that a correct understanding?</li><li>A. Those statements came out of meetings in this</li></ul>	11 12 13	word, but — so you said you consulted with some people and elected to make a change. Who did you consult with?	
	<ul><li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li><li>A. Those statements came out of meetings in this room.</li></ul>	11 12 13 14	word, but - so you said you consulted with some people and elected to make a change. Who did you consult with? A. DuBose, Tom.	
.2 .3 .4	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the</li> </ul>	11 12 13 14 15	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> </ul>	
.2 .3 .4 .5	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> </ul>	11 12 13 14 15 16	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> </ul>	
.2 .3 .4 .5	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes.</li> </ul>	11 12 13 14 15 16	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning</li> </ul>	
.2 .3 .4 .5 .6 .7	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes, MR. HANSON: Let me-make sure that</li> </ul>	11 12 13 14 15 16	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's</li> </ul>	an a
.2 .3 .4 .5 .6 7 8	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes.</li> <li>MR. HANSON: Let me make sure that we're talking about the same question. You're asking your first question asked why did he</li> </ul>	11 12 13 14 15 16 17 18	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's your testimony that it was changed at least in</li> </ul>	
.2 .3 .4 .5 .7 .8 .9 .0 .1	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes.</li> <li>MR. HANSON: Let me make sure that we're talking about the same question. You're asking your first question asked why did he</li> </ul>	11 12 13 14 15 16 17 18	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's your testimony that it was changed at least in part by Adam Young's review of the rezoning</li> </ul>	ана со
2 3 4 5 7 8 9 0 1 2	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes, MR. HANSON: Let me make sure that we're talking about the same question. You're asking your first question asked why did he initially propose it to be rezoned to C-3. MR. GOLDSMITH: Correct, with his most</li> </ul>	11 12 13 14 15 16 17 18 19 20	<ul> <li>word, but - so you said you consulted with some people and elected to make a change. Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's your testimony that it was changed at least in part by Adam Young's review of the rezoning application;</li> </ul>	
2 4 5 7 8 9 0 1 2 3	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes,</li> <li>MR. HANSON: Let me make sure that we're talking about the same question. You're asking your first question asked why did he initially propose it to be rezoned to C-3.</li> <li>MR. GOLDSMITH: Correct, with his most recent rezoning application.</li> </ul>	11 12 13 14 15 16 17 18 19 20 21	<ul> <li>word, but - so you said you consulted with some people and elected to make a change.</li> <li>Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's your testimony that it was changed at least in part by Adam Young's review of the rezoning</li> </ul>	
2 3 4 5 7 8 9 0 1 2	<ul> <li>at least to Mr. Jenkins that that not be rezoned to C-3, is that a correct understanding?</li> <li>A. Those statements came out of meetings in this room.</li> <li>Q. Meetings in this room in connection with the previous litigation?</li> <li>A. Yes.</li> <li>MR. HANSON: Let me make sure that we're talking about the same question. You're asking your first question asked why did he initially propose it to be rezoned to C-3.</li> <li>MR. GOLDSMITH: Correct, with his most recent rezoning application.</li> </ul>	11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>word, but - so you said you consulted with some people and elected to make a change. Who did you consult with?</li> <li>A. DuBose, Tom.</li> <li>Q. Anyone else?</li> <li>A. No.</li> <li>Q. So what was ultimately acted upon by the Planning Commission then was changed and I believe it's your testimony that it was changed at least in part by Adam Young's review of the rezoning application, the initial rezoning application?</li> <li>A. I don't agree it was acted upon by the Township</li> </ul>	

18 (Pages 66 to 69)

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	Page 7	0	Page 72	1152
1	Commission reviewed your rezoning request and	11	Q. Tell me in particular from the trial information	ALC: NO.
2	made its recommendation what was acted upon by	2		
3	them and what they made their recommendation on	3	during testimony that supported your decision to	
4	is what is depicted in this Exhibit 2, is that	4	ask for this to be rezoned from R-2A to C-2?	N LEBOR
5	accurate?	5	A. Again, Phil, again you have that. There was	D.Freedo
6	A. I don't think that's accurate, no.	6	testimony or there was in the stuff. They wanted	
7	Q. Okay. What was acted upon by the Planning	7	a classic transition zoning and in classic	A STATE
8	Commission?	8	transition zoning you went from the most intense	1000
9	A. I don't think this was acted upon at all.	9	and you tried to have different intervals of	1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 -
10	Q. I think I understand what you're saying now.	10	intensity down to the least intense, the least	2000
11	Because you weren't requesting a rezoning -	11	intense being the existing Indian Acres, Indian	10.01 (1915) 10.01 (1915)
12	A. Correct.	12	Road Indian subdivision thing to the west.	19 ( <del>1</del> 9 ) ( 19 )
13	Q it would remain as C-2?	13	So you had a car dealer C-3 which I	1150.00
14	A. Correct.	14	think is my understanding is the most intense	1
15	Q. I guess what I was getting at is that you changed	15	commercial district in Bedford. You had	(T2N.619)
16	your initial application based on the Adam Young	16	recommendations you do C-3 along Lewis and you	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1
17	review and left it C-2 so that no action was then	17	needed some kind of a transition between the most	
18	necessary by the Flanning Commission?	18	existing C-3 to the multi-family or whatever the	
19	A. Yes.	19	286 feet thing is called, Phil. You needed that.	1977
20 21	Q. Fair enough. That particular parcel says	20	So you needed something in a step-down	
22	existing C-2 and it's a 5.39 acre parcel that we	21	or a less intense use, so they wanted that. That	
23	were just talking about, that is part of the R-2A	22	is in different places.	1400
24	parcel to the north of that, correct, where it says R-2A to C-2, the 8.28 parcel?	23	Q. Okay.	1.111
25	MR. HANSON: Object to the foundation.	24	A. Then you have specifically Paul LeBlanc say what	1.524
	With IDA BOIL OUT IN THE ISLINGTON.	25	the Township is talking about in my situation is	
	Page 71		Page 73	
1	Go ahead.	1	taking the land use that is across the street on	
2	A. I don't think that existing C-2 is part of the	2	the east side of Lewis and flipping it to the	
3	R-2A, no.	3	west side.	
4	BY MR. GOLDSMITH:	4	When you look at the land use on the	
5	Q. It's not all one – it's different – certainly	5	east side of Lewis C-2 touches multi-family, so I	
6 7	different zoning classifications. As it sits	6	needed C-2 to touch multi-family and I picked it	
8	right now it's existing C-2 on Sterns Road, 5.39	7	because of those reasons.	
9	acres, and then that parcel to the north of $-$	8	Q. Okay. What proposed use did you envision for	1071G
10	there to the north of the existing C-2 and to the west of the C-3 where the dealership is, that	9	that particular parcel, that 8.28 acre parcel as	
11	R-2A parcel as it's currently zoned is all one	10 11	shown on your rezoning application?	¢ 200
12	part of all the same parcel, correct?	12	A. I didn't have a proposed use in mind. I had what was said at the trial.	
13	MR. HANSON: I'll object to the	13	Q. You did, however, have – you testified that you	
14	foundation again.	14	had a proposed use in mind for the RME, senior	
15		15	housing, correct?	
16		16	A. Well, that's what I asked for, yes.	
17		17	Q. And you had a proposed use for the RM-2,	
1,8	BY MR. GOLDSMITH:		apartments, correct?	1. I. S.
19		19.	A. Yes.	and a strategy of the
20		20	Q. And for the PBO?	Ne set di bas
21	A. I think it's 43, but yeah and a second state and the	21	A. Yep.	
22		22	Q. But you didn't have in mind a proposed use for	nata anatan a
23		23	the C-2?	
24		24	A. Commercial.	
25	A. From the trial information.	25	Q. And based upon your knowledge of the zoning	

19 (Pages 70 to 73)

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	Page 74	1	Page 7
1	ordinance, the Bedford Township zoning ordinance,	1	
2	what types of uses could that parcel be put to if	2	
3	it were rezoned to C-2?	3	the man and the man and the second
4	A. Well, I said I think for my non-expert opinion	4	MR. HANSON: Object to foundation, but
5	it's a shopping center.	5	go ahead.
6	Q. Which could be a lot of different things,	6	A. Yeah.
7	correct?	7	BY MR. GOLDSMITH:
8	A. Correct.	8	
9	Q. Could be a strip mall I suppose?	9	Q. And what would that be?
10	A. Whatever.	10	A. Directly across the street is C-3. I mean all
11	Q. Could be a large retail store?		around is C-3. Next to me is C-3.
12	A. A lot of things that would fit under shopping	11	Q. Directly across the street from that parcel is
13	center,	12	the former Chevrolet auto dealership, is that
14		13	correct?
15	Q. One of which would be a large retail store? A. Yes.	14	A. Yes.
16		15	Q. And to your knowledge that parcel is zoned C-3?
	Q. And that C-2 property would then, of course, be	16	A. That's my understanding you have to have, yeah.
17 18	adjacent to the C-3 property along Lewis Avenue,	17	Q. Supported by anything else that you are aware of?
	correct?	18	A. Well, it's next to me. It doesn't touch anything
19	A. Yes.	19	but the community college and the existing auto
20	Q. The C-3 property that currently is occupied by	20	dealership. It's across from C-3.
21	your auto dealership, correct?	21	Yeah, I think it's supported.
22	A. Yes.	22	Q. To the north of that parcel is the community
23	Q. And then the C-3 property that was proposed to	23	college, correct?
24	the south which would be in the southeast corner	24	A. Correct.
25	of the Whitman Ford property, correct?	25	Q. And that's zoned R-2A I believe?
	Page 75		Page 77
1	A. Yes.	1	A. I don't know.
2	Q. Going to the up to the northeast corner of the	2	Q. What use did you envision for that particular
3	Whitman Ford property, what caused you to make	3	parcel?
4	application to change that parcel, the 3.27 acre	4	A. Commercial.
5	parcel, from C-2 to C-3?	5	Q. Nothing in particular?
6	A. Julie Johnson's recommendation.	6	A. No, nothing in particular.
7	Q. And where did she make that recommendation?	7	Q. Of course, the existing C-3 that was not acted
8	A. In a letter.	8	upon because no request was made for that,
9	Q. And where was that in connection with the	9	correct
.0		10	A. Correct.
1	T ( )D	11	Q where the auto dealership is located? And
2		12	then we already talked – well, let's go down.
3		13	I guess we didn't talk about the other
4		14	parcel that fronts on Lewis Avenue or did we,
5 .	• • • • • • • • • • • • • • • • • • • •	15 .	the 3.59 acre parcel in the southeast corner.
6	· · · · · · · · · · · · · · · · · · ·	16	
7		10 17	That parcel you requested to be rezoned
8		L8 .	from C-2 to C-3. What was that request based
9			when the trial First of all India Jahnson
0.		20	*A: In the trial. First of all, Julie Johnson
1			recommended on Lewis I asked for north of the
2	A T 1 1 10		dealership, C-3 in her letter. You have existing
3		22	C-2 where I was at.
4		23	Again, in the trial they wanted to see
		24 25	transition zoning. They wanted to see the most intense on Lewis and they wanted to see less
5			

20 (Pages 74 to 77)

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	11	intense behind it and they wanted to see less	1	A. I don't know what exactly you would mean by that
	2	intense behind that getting to the Indian Acres,	2	or who said that. I mean
	3	Indian Road subdivision.	3	BY MR. GOLDSMITH;
	4	Q. And what proposed use did you envision for that	4	Q. Let me ask a different question then. If you go
	5	particular parcel?	5	back to your conceptual drawings, your conceptual
	6	A. Some type of commercial.	6	drawings show a road that extends from Sterns
	7	Q. After Adam Young made his initial review of your	7	Road to Lewis Avenue, correct?
	8	rezoning application and in that review he talked	8	A. Correct.
	9	about the request that you had made along Sterns	9	Q. And that road is on the parcel that was proposed
	10	Road to rezone to C-3 and was opposed to that, do	10	to be rezoned from R-2A to C-2, correct?
	1.1	you remember that?	111	A. That's my opinion, yes.
	12	A. Yes.	12	Q. And if that conceptual road was built and that
	13	Q. Were you provided with a copy of his review?	13	parcel would have been rezoned to PBO, there
	14	A. Did I get a copy of the letter?	14	would have been access to that parcel, correct?
	15	Q. Yes.	15	A. That road would be built, yes.
	16	A. Yes.	16	<ul> <li>Q. And you had indicated before that it's uncommon</li> </ul>
	17	Q. And did you have any conversations with Adam	17	to have PBO on anything other than a roadway for
	18	Young about his letter, about his review?	18	
	19	A. No.	19	— I think for visibility purposes, is that a fair statement?
	20	Q. Do you know whether anyone acting on your behalf	20	A. Yes,
	21	spoke with Adam Young and had any conversations	21	
	22	with him regarding his review?	22	Q. And if that road were built or if it was built,
	23	A. I have no knowledge of that.	23	then that PBO would be on a roadway and it would
	24	Q. And then Adam Young submitted a second review		have visibility on a roadway that connects to
	25	letter, correct, after you withdrew your request	24	Lewis Avenue and Sterns Road, correct?
		letter, correct, and you withdrew your request	25	A. A secondary non-county, non-state, non-township
		Page 79		Page 8
	1	to rezone from C-2 to C-3 along Sterns Road. Do	1	road, yeah.
	2	you believe that to be accurate?	2	Q. There has - when your application made its way
	3	A. Yeah, there's two letters.	3	to the Township Planning Commission and was
	4	Q. And were you provided a copy of that letter, that	4.	reviewed by the Township – a public hearing was
	5	Adam Young letter?	5	held, correct?
	6	A. Yes.	6	A. Yes.
	7	Q. And did you have any conversations with Adam	7	Q. And were you present at that public hearing?
	8	Young about that letter?	8	A. No.
	9	A. No.	9	Q. But I believe Mr. Hanson was there on your
	10	Q. And do you know whether anyone acting on your	10	behalf?
	11	behalf had any conversations with Adam Young	11	A. He represented me.
-	12	about that letter?	12	Q. You were aware that the Planning Commission when
	13		13	it reviewed your rezoning application reviewed
	14		14	each of the six parcels separately as opposed to
	15 .		1.5 •••	
an an an an a'	1	R-2A to C-2, there was some discussion and we're	16	aware of that?
ana ang kanalang kan Kanalang kanalang kana	16		1.2 .	
an a	16 17		17 ·	A. That's my understanding.
in i	1			· · · · · · · · · · · · · · · · · · ·
in in an	17	bit later about the township-initiated rezoning		<ul><li>A. That's my understanding.</li><li>Q. Did you object to that procedure being employed by the Planning Commission?</li></ul>
ana an	17 18	bit later about the township-initiated rezoning of that parcel.	18 19	Q. Did you object to that procedure being employed
1997年1月1日(1997年) 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997年日 1997 1997 1997 1997 1997 1997 1997 199	17 18 19	bit later about the township-initiated rezoning of that parcel. But there was some discussion that that	18 19	<ul> <li>Q. Did you object to that procedure being employed by the Planning Commission?</li> <li>A. I wasn't there, Phil. I was surprised it</li> </ul>
an a	17 18 19 20	bit later about the township-initiated rezoning of that parcel. But there was some discussion that that parcel would be a landlocked parcel, do you	18 19 20 21	<ul> <li>Q. Did you object to that procedure being employed by the Planning Commission?</li> <li>A. I wasn't there, Phil. I was surprised it happened. I was surprised it happened.</li> </ul>
	17 18 19 20 21	bit later about the township-initiated rezoning of that parcel. But there was some discussion that that parcel would be a landlocked parcel, do you recall that during the deposition, a statement	18 19 20 21	<ul> <li>Q. Did you object to that procedure being employed by the Planning Commission?</li> <li>A. 1 wasn't there, Phil. I was surprised it happened. I was surprised it happened.</li> <li>Q. Okay. I'll take that answer you were surprised</li> </ul>
	17 18 19 20 21 22	bit later about the township-initiated rezoning of that parcel. But there was some discussion that that parcel would be a landlocked parcel, do you recall that during the deposition, a statement being made that that would be a landlocked	18 19 20 21 22	<ul> <li>Q. Did you object to that procedure being employed by the Planning Commission?</li> <li>A. I wasn't there, Phil. I was surprised it happened. I was surprised it happened.</li> </ul>

21 (Pages 78 to 81)

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	1			Page 84	
	2			plan, the compact development plan with	
	3	A. I probably would object to it, yeah. If I was	2	transitional zoning, correct?	(Viller)
		asked I would probably say I don't think that's	3	MR. HANSON: Objection well, I'm	
		right.	-4	just going to object to the extent it calls for	
	5	Q. I'm going to ask you this. Why don't you think	5	speculation, but you can go ahead and answer that	
	6	that's right?	6	question.	1000
	7	A. Phil, your master plan, your master plan says you	7	Your question, Phil, is if the Planning	
	8	want compact and coordinated commercial	8	Commission had done it the way it did it and had	201420
	9	development. If you act on them individually	9	recommended approval of Parcel 6 and then	140 miles
	10	like you did, it certainly is not coordinated as	10	MR. GOLDSMITH: Of each parcel.	
	11	I understand that word.	11	MR. HANSON: And then the Township	
	12	In addition to that, you had a trial, a	12	board has then accepted the recommendation of the	
	13	very public trial where the news media sat right	13	Planning Commission and actually approved the	-
	14	there, everybody knew what happened, where you	14	rezoning of Parcel 6, that's your question?	11111
	15	wanted this very specific step-down, the most	15	MR. GOLDSMITH: That's my question.	
	16	intense on Lewis, less intense behind that, less	16	MR. HANSON: Is there a referendum in	
	17	intense behind that and then you get to Indian	17	there or not?	
	18	Subdivision.	18	MR. GOLDSMITH: Not yet.	the state of the s
	19	When you consider these one at a time	19	MR. HANSON: Since we're out in	244
	20	it's, A, not coordinated and, B, you have what	20	hypothetical-land I want to find out which	112512
	21	you said you wanted in trial in this transition	21	hypothetical-land we're living in.	
	22	zoning from most intense to least intense, you	22	Obviously I'm going to object to that	
	23	break that up.	23	question as calling for a hypothetical answer,	1
	24	So it goes against what you said you	24	but Jon, you can answer the question.	
	25	wanted at trial and it goes against at least this	25	A. Phil, now what exactly is the question? Now that	
			<b> </b>		
	ı	Page 83		Page 85	
		compact and coordinated. It's really	1	we're hypothetically what is the question?	
	2	uncoordinated when that doesn't happen.	2	BY MR. GOLDSMITH:	
		I would have if I would have been	3	Q. Let me ask the question this way. Would you	
	4	asked, would have said for those two reasons I	4	object to the Planning Commission in the public	
	5	wouldn't recommend doing this.	5	hearing and in its review of your rezoning	
	6	Q. So am I to understand that you would have	6	application to looking at each individual parcel	
	7	preferred that the Planning Commission act on it	7	that you proposed and considering the uses that	1149144
	8	as a whole and either recommend approval or	8	could be put to each individual parcel?	1889 1816 1816 1816 1816 1816 1816 1816
	9	recommend denial as a whole without reference	9	Let me ask that question first.	2444 47 26
	10		10	A. I don't know if I have an objection.	67 Xhat
		- 1	11	MR. HANSON: I'm going to object. I'm	3192741
	12		12	going to object as asked and answered and I'll	2221 A 191
	13	- 1	13	object to the form.	2230012
	14		14	A. I don't understand I would object.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	15			BY MR. GOLDSMITH:	
et en la servició de	16		16	Q. I'm just asking, would you find it objectionable	
	17.		17	for the Planning Commission to look at each	10.01
이 밖에 지하는 것이 많이 있다.			18	individual parcel and looking at the proposed	
		· · · · · · · · · · · · · · · · · · ·	19	uses that could be put to each individual parcel	
			20	that was presented in your overall rezoning	
مصادشتهم والمراجع		· · · · · · ·	21	application?	n se desta te tra de la contra de
	22		22	MR. HANSON: Objection, asked and	
	23		23	answered. That's what the Planning Commission	
	24		24	did and I think Jon has already both stated his	
	25	individual parcel, it still would have been the	25	objection and given a fairly lengthy answer as to	
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22 (Pages 82 to 85)

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1	the basis of that objection.	1	particular piece of property."
2	A. There's nothing I can add to what I've said.	2	
3	BY MR. GOLDSMITH:	3	Would you agree with that? MR. HANSON: And I'll object to the
4	Q. Okay, all right. In your response to that	4	extent that Mr. LeBlanc and all the experts'
5	question several times you indicated based on	5	-
6	your reference to the prior trial what you	6	testimony was not based solely on sound planning
7	wanted, meaning – I presume meaning what the	7	principles, but also based on a review of the
8	Township wanted for the Whitman Ford parcel.	8	Township Master Plan and the Township zoning ordinance.
9	Is that what you meant by that?	9	
10	A. Yes, what the Township said they wanted, yes.	10	MR. GOLDSMITH: I agree with that and I
11	Q. Well, did the Township ever say in that trial,	11	think they employed their expertise and applied
12	"This is what we want for the Whitman Ford	12	sound planning principles based on all those
13	property" or did the planning experts testify as		documents.
14	to what in their opinion were sound planning	13	BY MR. GOLDSMITH:
15	principles that could be employed with respect to	14	Q. I just wanted to make the point that when you say
16		15	"this is what the Township wanted", there wasn't
17	the development of the Whitman Ford property?	16	any testimony per se that this is what we want
18	A. Well, the people that testified were the people	17	for the parcel, this is what needs to be there.
1.8 1.9	that testified, Phil. I'm not sure any township	1.8	MR. HANSON: And by "this", you're
20	official testified other than Bob Shockman, and I	19	talking about the exact layout that Mr. Whitman
	did not go off his testimony.	20	proposed?
21	Q. So is it fair to say that no one at the prior	21	MR. GOLDSMITH: Yes.
22	trial said this is what Bedford Township wants?	22	A. The exact layout?
23	Rather, planning experts testified as to what in	23	BY MR. GOLDSMITH:
24	their opinion, their professional opinion, was	24	Q. Yeah.
35	sound planning principles that could be applied	25	A. The exact layout to the foot, no.
	Page 87		Page 89
1	to the Whitman Ford parcel?	1	Q. So am I to understand then that your preference
2	A. I think DuBose without it being in front of	2	would have been even though this is one parcel,
3	me, I think DuBose said this is what the Township	3	one 43 acre plus or minus parcel, that was broken
4	is talking about in this situation. I think	4	out into several different zoning
5	DuBose very clearly says this is what the	5	classifications, your preference would have been
6	township is talking about.	6	for the Township Planning Commission to act on it
7	MR. HANSON: Let me just	7	as one application, not separate it and either
8	MR. GOLDSMITH: Let me follow up.	8	recommend approval or recommend denial as a
9	MR. HANSON: Yeah, go ahead.	9	whole?
0	BY MR. GOLDSMITH:	10	A. I think yes.
1		11	MR. HANSON: Objection, asked and
2		12	answered.
3		13	A. Yes and I think, Phil, when you put in the Master
4	the Township is talking about in this case.	14	Plan the slash this, slash that, slash the other
	Q. But I guess what I'm getting at is just so the	15.	thing, obviously you've got to put them in there
5			together. Maybe that's just implied, but that's
5 6		16	together. Waybe that's just midned, but mats is
	record is straight and I agree with you that	16 17	how I read that.
6	record is straight — and I agree with you that . the prior record speaks for itself. Nobody is		how I read that.
6 7	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is.	17	how I read that. BY MR. GOLDSMITH:
6 7 8	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is. But I don't believe in my review of	17 18	how I read that. BY MR. GOLDSMITH: Q. You're talking about what the Master Land Use
6 7 8 9	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is. But I don't believe in my review of that prior record that Paul LeBlanc ever said,	17 18 19	how I read that. BY MR. GOLDSMITH: Q. You're talking about what the Master Land Use Plan Map shows, correct, in terms of
6 7 8 9	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is. But I don't believe in my review of that prior record that Paul LeBlanc ever said, "This is what we want for the Township."	17 18 19 20	how I read that. BY MR. GOLDSMITH: Q. You're talking about what the Master Land Use Plan Map shows, correct, in terms of A. In the words, yes.
6 7 8 9 0	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is. But I don't believe in my review of that prior record that Paul LeBlanc ever said, "This is what we want for the Township." Rather I think — and I'm paraphrasing,	17 18 19 20 21	how I read that. BY MR. GOLDSMITH: Q. You're talking about what the Master Land Use Plan Map shows, correct, in terms of A. In the words, yes. Q. In terms of the mixed residential, commercial,
6 7 8 9 0 1	record is straight — and I agree with you that the prior record speaks for itself. Nobody is going to change that. It is what it is, But I don't believe in my review of that prior record that Paul LeBlanc ever said, "This is what we want for the Township." Rather I think — and I'm paraphrasing, that what he testified to is, "In my professional	17 18 19 20 21 22	how I read that. BY MR. GOLDSMITH: Q. You're talking about what the Master Land Use Plan Map shows, correct, in terms of A. In the words, yes.

23 (Pages 86 to 89)

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1	zoning ordinance and that's not the law, correct?			
2	A. I understand that's not part of the zoning	1	Q. Other than some conversation that may have	
3	ordinance.	3	occurred between your parents and Paul did anyone	ă,
4	Q. After the Planning Commission acted on your		else that you know of or anyone acting on behalf of Whitmon Ford Company how one discout	4
5	rezoning application, held the public hearing and	5	of Whitman Ford Company have any discussions with	ĺ.
6	made its recommendation did you have at that	6	any Planning Commission members or representatives of the Tourschip on board much and	7
7	point in the procedure did you have any	7	representatives of the Township or board members? A. Yes.	
8	communication with any township representatives,	8	Q. Who?	
9	whether it be elected officials, appointed	9	-	
10	Planning Commission members or staff members?	10	A. My father went over and talked to Walt Wilburn.	
11	A. After that?	111	<ul> <li>Q. Were you present during that conversation?</li> <li>A. I've answered this.</li> </ul>	
12	Q. After the Planning Commission acted.	12		
13	MR. HANSON: Are you talking about Jon	13	Q. I'm just following up on it. So your answer is no, you weren't present. Did your father relay	
14	personally?	14	to you what the substance of the conversation	
15	MR. GOLDSMITH: I'm going to start with	15	between him and Mr. Wilburn was?	
16	Jon personally, yes.	16	A. Yes,	•
17	A. Personally, no.	17	Q. What was the substance?	
18	BY MR. GOLDSMITH;	18		
19	Q. Anyone acting on your behalf that you're aware of	19	A. My father was very disappointed in Denny Steinman	
20	that might have had communication with any	20	(sp) at the planning meeting. He was very	
21	Bedford Township representatives?	21	disappointed with what he said and there was	
22	A. Paul Frances (sp) is related to our family.	22	going to be a vote on the township board wasn't	
:3	There was communication and there were times	22	going to vote on this before the election because	
24	there were family events and there was	23 24	there are reasons, and my father wanted to make sure that if we had a chance we would like the	
25	communication or contact or whatever at these	24 25	sure that if we had a chance we would like the new board to vote on it.	
		20		
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1	family events between our family and him.	1	Q. So, Deany Steinman - Dennis Steinman was on the	
2		-	1	
	Q. Can you tell so there was some discussion	2	Planning Commission at the time the	
3	concerning what had happened at the Planning	з		
3 4	concerning what had happened at the Planning Commission level prior to the board acting on the	3 4	Planning Commission at the time the recommendation was made on your rezoning application, correct?	
3 4 5	concerning what had happened at the Planning Commission level prior to the board acting on the application?	3 4 5	Planning Commission at the time the recommendation was made on your rezoning application, correct? A. Yes.	
3 4 5 6	<ul> <li>concerning what had happened at the Planning</li> <li>Commission level prior to the board acting on the application?</li> <li>A. After the planning meeting?</li> </ul>	3 4 5 6	Planning Commission at the time the recommendation was made on your rezoning application, correct? A. Yes. Q. He was the township board representative on the	
3 4 5 6 7	<ul><li>concerning what had happened at the Planning Commission level prior to the board acting on the application?</li><li>A. After the planning meeting?</li><li>Q. Yes.</li></ul>	3 4 5	Planning Commission at the time the recommendation was made on your rezoning application, correct? A. Yes.	
3 4 5 6 7 8	<ul> <li>concerning what had happened at the Planning Commission level prior to the board acting on the application?</li> <li>A. After the planning meeting?</li> <li>Q. Yes.</li> <li>A. I believe that was discussed, yes.</li> </ul>	3 4 5 6	<ul> <li>Planning Commission at the time the recommendation was made on your rezoning application, correct?</li> <li>A. Yes.</li> <li>Q. He was the township board representative on the Planning Commission, is that your understanding?</li> <li>A. I assume. That's my understanding.</li> </ul>	
3 4 5 6 7 8 9	<ul> <li>concerning what had happened at the Planning</li> <li>Commission level prior to the board acting on the application?</li> <li>A. After the planning meeting?</li> <li>Q. Yes.</li> <li>A. I believe that was discussed, yes.</li> <li>Q. And who were those discussions held between, if</li> </ul>	3 4 5 6 7	<ul> <li>Planning Commission at the time the recommendation was made on your rezoning application, correct?</li> <li>A. Yes.</li> <li>Q. He was the township board representative on the Planning Commission, is that your understanding?</li> <li>A. I assume. That's my understanding.</li> <li>Q. And was your father present at the Planning</li> </ul>	
3 4 5 6 7 8 9 0	<ul> <li>concerning what had happened at the Planning Commission level prior to the board acting on the application?</li> <li>A. After the planning meeting?</li> <li>Q. Yes.</li> <li>A. I believe that was discussed, yes.</li> <li>Q. And who were those discussions held between, if you recall?</li> </ul>	3 4 5 6 7 8 9 10	<ul> <li>Planning Commission at the time the recommendation was made on your rezoning application, correct?</li> <li>A. Yes.</li> <li>Q. He was the township board representative on the Planning Commission, is that your understanding?</li> <li>A. I assume. That's my understanding.</li> </ul>	
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Jon Whitman June 15, 2010

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1	January.		Page 96
2	BY MR. GOLDSMITH:	1	
3	Q. I'm sorry. The new – but it was the new	2	and the second rownship board, is
4	board was acting at that point, correct?	3	
5	A. Yes.	4	
6	Q. Dennis Steinman was not a trustee at the time the	6	2. The fait was at your at whitman Ford Company's
7	Bedford Township board voted on your rezoning	7	<b>1</b>
8	application, is that correct?	8	A. Yes. Q. And I take it you were not present at the
9	A. Correct.	9	Township board meeting when the board acted on
10	Q. And so that was my error, sorry. Your dad asked	10	your rezoning application?
11	that the new board vote on this as opposed to the	11	A. Correct.
12	- what I'll refer to as the old board?	12	Q. Was anybody there on your behalf? Was Mr. Hanson
13	MR. HANSON: Same objection.	13	at that meeting?
14	A. That conversation happened.	14	A. Yes.
15	BY MR. GOLDSMITH:	15	Q. Well, at this point in the chronology of events
16	Q. And I think you even wrote a letter to	16	it's obvious that the Township board adopted the
17	Mr. Wilburn which maybe followed on that. Let's	17	recommendation of the Planning Commission and
18		18	approved each of the rezonings except what is
19		19	sometimes referred to as the middle parcel, the
20	DEPOSITION EXHIBIT 3	20	8.28 acre parcel, is that your understanding?
21		21	A. Yes.
22		22	Q. And then shortly after that action was taken a
23		23	citizens group undertook to obtain petitions for
24	-	24	a referendum, is that also your information?
25	Q. You were handed before we broke Exhibit 3 which	25	A. Yes.
	Page 95	i	Page 97
1	appears to be a letter authored by you and we	1	Q. And we've talked a little bit in prior
2	were just talking about when the Township board	2	depositions about the referendum. During that
3	acted upon Whitman Ford's rezoning request.	3	time frame, I think it was suggested at previous
4	Could you take a look at that document	4	depositions – and I don't remember if it was
5	and after you've looked at it I'll ask you some	5	Dennis Jenkins' or Walk Wilburn's or perhaps
6 7	questions about it.	6	both, but some questions were asked of those
7 8	A. Okay.	7	witnesses regarding whether the Township took any
8 9.	Q. You've looked at it? Is this a letter that you	8	action to either oppose the referendum or let me
9. 10	wrote to Bedford Township in care of Walt Wilburn	9	ask you this.
11	A 37	10	Based on those questions that were
12		11 15	asked I took it that you believe that there were
13		12	some inaccurate statements made by the proponents
		13 74	of the referendum concerning the rezoning and
L5		14 15	concerning what potential uses the property might
-			be put to, is that a fair statement? A. Based upon the depositions?
17.			<ul> <li>Q. Well, based upon questions that your attorney</li> </ul>
8		18	Q. wen, based upon questions that your attorney asked either Walt Wilburn and/or Dennis Jenkins.
9	considered by the board, is that a fair		took it from some of those questions that you
:0		20	or Whitman Ford Company representatives felt that
1	happen?		the referendum was being promoted by inaccurate
2	A. I don't know what happened between my dad and 2	22.	information, is that a fair statement?
	TTT Is at T 111		A. Yes.
3			Th.
3 4	ТЧ Ч		Q. Can you identify for me some of the information

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25 (Pages 94 to 97)

Jon Whitman June 15, 2010

Page 96       Page 200         1       that you felt was inaccurate?       0. I take it from some questions that were asked by your attorney that someone, whether it was you or accurd, with your at first attranet, but with the to -yout have         3       accurately do that. I mean 1 agree with your         4       first attranet, but with way to -yout have         5       to refeab my metory on exactly what i would         6       think.       6         7       Q. And guite firstky I don't think I can do that       6         8       because I don't have any of that formation.       9         9       I we first you and may be aboutd aky with ison       9         12       your disposal laformation in writing formation writing formation in writing formation writing formation writing formation in writing formation writing formation in writing formation writing formation writing formation writing formation in writing formation writing formation in writing formation	Г		'	<u> </u>	-
2       A. Wiknut it being in front of me, Phil, I couldn't accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurately do fut. I mean 1 agree with your accurate y what I would fut.         7       Q. And quite frankly I don't think. I can do fut a fut.       6         10       whether you avait due you four think.       6         11       whether you have this your fut.       7         12       your disposel flathormation is written form that       7         13       you disposel flathormation is written form that       7         14       referendum and the information flath was being circulated cancerning flat?       12         15       you would cooperate relative to the       13         16       A. I have funt, yea.       17         17       Q. And so is a regrest to produce if 1 asked for 10       13         18       provide that?       14       16         19       you would cooperate with your acturey and the information or disinformation		Page 98		Page 100	
2       A. Widhoud it being in front of mp. Phil, I couldn't associated with Wulfame Bayes with your       2       your attorney that smeans, whether it way you or someone connected with Wulfame Bayes with your         3       associated with Wulfame Bayes with your       3         4       first statement, but we'd have to - you'd have       5         5       to refleck my memory on casedy with I would       5         6       think.       6         7       Q. And quie frankly I don't think I can do that       6         10       whether you - and maybe I should ask you thins-       7         11       whether you - and maybe I should ask you thins-       9         12       your dispasal Information in writice form that       12         13       your dispasal Information in writice form that       12         14       referendum and the information that was being       12         15       chrance triage it asked for       13         16       A. Thave that, yes.       16         17       Q. And a is a regreser produce If I asked for       16         18       that you would comperate with your attarney and       16         19       that you would compare that the of       11         19       that you would compare that the of       12         1		1 that you felt was inaccurate?	1	Q. I take it from some questions that were asked by	2007
3       accurately do first. I mean largers with your       3       accurately do first. I mean largers with your         4       first storment, but we't have to			2	-	
4       first statement, but weld have on-you'd have       4       that the Towship, Bedirad Towship, shoul have         5       to reflexing you have actively what I would       5       monited some sort of a campaign to support the         7       Q. And quite frankly I don't think I can do that       6       action that the Towship, Bedirad Towshith, should have         7       Q. And quite frankly I don't think I can do that       7       First of the six parcel of the Whitman Ford         9       I was juit asking you that question to determine       9       A. Well, I believe Paul Tames wrote: an ophicin         12       your bipesal information in written form that       22       Q. Yeads, I, believe any yss.         14       referendum and the information that was being       14       because the parce in believe for police and         15       A. I have that; yes.       16       haracterized if a a semear and either         16       A. Take that;       16       sameoday elected like duat makes that kind of         17       Q. And a in a request to produce If a taked for       17       So f think if a townhip be achied         17       Q. Hit is et all relevant, but - okay. Let me       11       information should come forth yeak.         18       sameody as the property owner or       23       acarstely state what was tranappring?         18			3		
5       to refresh my memory on exactly what I would       5       mounted some served a campaign to support the attom hat the Township board took it arranting         6       think.       6       action that the Township board took it arranting         7       Q. And quite frankly I don't think I can do that       6       action that the Township board took it arranting         7       Jiva backing you that question to determine       7       five of the six parcels of the Whitman Ford         10       whether you are under my but records or at       10       piece in Eadford Now. Is that the name of the         12       your disposal information in written form that       12       Q. Yeah, Ibelieve any sets.       13         13       you believed was inaccurate relative to the       13       A. Ibelieve Paul Frances wrote an opinion piece and         14       referendum and the information the written form that       12       Q. Yeah, Ibelieve Nu, yes.         15       atterned yeah distance       16       becauserized it as a sum on what has         16       A. Invo that, yes.       17       So I think if a township official ce         18       astament, you know! distand of       satement, you know! distand of         19       provide that?       20       information should come forth, yeak.         10       If it is at all reforwards was the p		- +	4		
6       think.       6       action that the Township board took in recoming         7       Q. And guite framkly I don't think I can do that       6       investig to the stap sector of the Whitman Ford         9       Twas just asking you that question to determine       9       A. Well, Ibelieve Pul Frances wrote an opinion         10       whether you - and maybe I should ask you this -       9       A. Well, Ibelieve Pul Frances wrote an opinion         11       your disposal information is written form that       12       Q. Yeah, Ibelieve Nu Frances wrote an opinion piece and         12       your disposal information is written form that       12       Q. Yeah, Ibelieve Nu Frances wrote an opinion piece and         14       referendum and the information that was being       16       he characterized if as a snorm and either         15       characterize to produce if I asked for       18       somebody elected like that makes that find of         16       A. There relevant, but - okay. Let me       21       And can't tell you caucity what he         23       Bid you us the property owner or       23       again, Ionald produce tift or you. Phil.         24       Whitmam Ford Company as the property owner or       23       again, Ionald produce tift or you. Phil.         24       Whitmam Ford Company as the property owner or       23       again, Ionald produce tift or you.		-	5		
7       Q. And guite frankly I don't think I can do that       7       Fee of the sky parcels of the Whitman Ford         9       Iwas just asking you that question to determine       7       Fee of the sky parcels of the Whitman Ford         10       whether you a- and maybe I should ask you this -       7       Fee of the sky parcels of the Whitman Ford         10       whether you a- and maybe I should ask you this -       7       Fee of the sky parcels of the Whitman Ford         11       whether you a- and maybe I should ask you this -       7       Fee of the sky parcels of the Whitman Ford         12       your disposal information is written form that       7       A. Weil, I believe sa, yss.         12       Q. Veah, I believe sa, yss.       14       he characterized it as samear and either         13       your befaux you would cooperate with your attorney and       ininformation or disinformation on what has       16         14       referendum and the information that was being       15       statement, you know, I think maybe truthial         15       A tradie you would cooperate with, your attorney or       23       bid you as the property owner or       23         24       Whitman Ford Company as the property owner or       24       O hay. Frances made an attempt to clear the in' or         25       Joud you as the propery wave or       24       O hay. France		· · ·	6		
8       because I don't have any of that Information, so       8       property?         9       I was just asking you that question to determine       9       A. Well, I believe Paul Frances wrote an opinion         11       whether you have either in your records or at       10       property?         12       your deposal information in written form that       10       procession is a statement formation in written form that         13       you believed was inaccurate relative to the       13       A. I believe Paul Frances wrote an opinion         14       referendum and the information that was being       14       he characterized it as a smear and either         15       circulated concerning that?       16       happened.       17       So I think if a tawnship official or         16       A. I have that, yes.       16       happened.       17       So I think if a tawnship official or         19       statement, you know, I think mybe trathall       information should come forth, yeah.       18         21       Q. Yeah, U to leive P was that and form that       21       A. I and I can't tell you coastly what he         23       Did you as the property owner or       23       again, I coald produce that for you, Phil.         24       Q. Okay. Well, is it your testimony that       26       Ge. Tawrot ten any teleive, a statement, bein a s			7		
9       I. Well, believe Paul Frances worde an opinica         10       whether you have either in your records or at         12       your disposal information in written form that         13       you believed was inaccurate relative to the         14       referendum and the information that was being         15       circulated concerning that?         16       A linker Paul Frances worde an opinica piece and         17       Q. And se is a request to produce if I asked for         18       that you would cooperate with your attorney and         19       provide ibat?         20       A. Yeah.         21       Q. And se is a request to produce if I asked for         18       samebody elected like that makes that kind of         19       provide ibat?         21       A. Yeah.         22       ask you this.         23       Did you as the property owner or         23       Did you as the property owner or         24       Welfiman Ford Company as the property owner         25       Mithoram Ford Company as the property owner         26       A. Fublicly?         3       A. Publicly?         3       A. Publicly?         3       A. Publicly or privately or -	1		8	-	
10       whether you name and maybe I should ask you this -       10       picce in Bedford Now. Is that the name of the paper, Phil, the local paper?         11       you believed was inaccurate rotative to the information in written form that you would concersing that?       13       Q. Yeth, believe so, yes.         15       circulated incomending that?       16       happened.         16       A. I have that, yes.       16       happened.         17       Q. And is o a request to produce if T asked for that you would cooperate with your attorney and paper.       17       So I this if a township official or some-body elected like that makes that ind of some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that makes that ind of a some-body elected like that prove that and the likew, a some and electer.         23       Did you as the property owner or       23       again, I could rooduce that for you, phil.         24       Whitmam Ford Company as the property owner or       23       again, I could rooduce that for you, phil.         24       you felt were inaccurate statements being a circulated in support of this referendum?       1       A. Howere that you was a wore against what was that y			9		
11       whether you have either in your records or at       11       page, Phil, the local pager?         12       your disposal information in written form that       12       Q. Yeah, 1 believe Nay, Yeah, 1 bel	1	.0 whether you - and maybe I should ask you this -	10		
12       your disposal information in written form that       12       Q. Veah, 1 believe so, yes.         13       you believed was inaccurate relative to the       12       A. Theireves, yes.         13       you believed was inaccurate relative to the       12       A. Theireves, yes.         14       referendum and the information that was beling       15       A. Theire that, yes.       16         15       A. I have that, yes.       16       becancerized it as a senear and either.         16       A. I have that, yes.       16       becancerized it as a senear and either.         16       A. I have that, yes.       16       bapponed.         17       Q. And so in a request to produce if I asked for that you would cooperate with your attorney and the you wonk ow, I think maybe truthful       information should coone forth, yesh.         21       Q. If it is at all relevant, but – okay. Let me       21       And I cont tell you exactly wat hat         23       Did you as the property owner or       23       again, I could produce that for you, Phil.         24       Whilman Ford Company as the property owner or       23       chreat have its referred and its its referred and its re	1		11		
13       you believed was inaccurate relative to the       13       A. I believe Paul Frances wrote an ophion piece and         14       referendum and the information that was being       14       he characterized it as a smear and either         15       circulated concerning that?       15       hisformation on what has         16       A. I have that, yes.       16       happened.         17       Q. And so is a request to produce if I asked for       17       So I think if a township official or         18       that you would comperate with your atterney and       18       somebody elected like that makes that kind of         19       provide that?       19       statement, you know, I think maybe truthful         21       Q. If it is at all relevant, but - okay. Let me       21       And I can't tell you exactly what hee         23       Did you as the property owner or       23       3again, Loudd produce that for you, Phil.         24       Whitman Ford Company as the property owner       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       25       Mr. Frances made an attempt to clear the ai or         26       Vibitory?       3       characterize it as a courately state what was transpiring?       2         3       A. Publicly?       3	1		12		
14       referendum and the information that was being       14       he characterized it as a smear and either         15       circulated concerning that?       15       misinformation or disinformation or disinformation or disinformation or disinformation or disinformation and the that makes that kind of         16       happened.       16       happened.         17       Q. And so is a request to produce if I asked for       17       So I think if a township official or         18       that you would cooperate with your atterney and       19       satement, you know, I think maybe truthful         19       ord is a treated by that       20       So I think if a township official or         20       If it is at all relevant, but – okay. Let me       21       And I can't tell you exactly what he         23       Did you as the property owner or       23       again, I could produce that for yon, Phil.         24       Whitman Ford Company as the property owner or       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsever to counteract what       25       Mr. Frances made an attempt to clear the air or         18       you felt were inaccurate statements being       1       accurately state what was transpiring?         2       A. Dubicly?       2       A. He wrote that picce. I don'thow if I could         3 <td>1</td> <td></td> <td>13</td> <td></td> <td></td>	1		13		
16       A. Ihave that, yes.       16       happened.         17       Q. And so is a request to produce if I asked for that you would cooperate with your attorney and 19 provide that?       16       happened.         18       that you would cooperate with your attorney and 19 provide that?       17       So I think if a township official or statement, you know, I think maybe ruthful         19       statement, you know, I think maybe ruthful       16       somebody elected like that makes that kind of statement, you know, I think maybe ruthful         20       If it is at all relevant, but – okay. Let me       21       And I can't tell you exactly what he         23       Did you as the property owner       23       said, but I believe he wrote that and I believe, again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner       23       sagain, I could produce that for you, Phil.         24       Q. Okay. Well, is it your testimony that       24       O. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       2       Mr. Frances made an attempt to clear the air.         26       Yage 99       Page 101       accurately state what was transpiring?         2       A. Tubicly?       A. He wrote that pice. I don't know if I could characterize is as accurately stating what was transpiring or clear the air.         3	1	4 referendum and the information that was being	14		
16       A. I have that, yes.       16       happened.         17       Q. And so in a request to produce if I asked for       16       So I thik if a township official or         18       that you would cooperate with your attorney and       19       somebody elected like that makes that kind of         20       A. Yeah.       20       information should come forth, yeah.       21         20       If it is at all relevant, but - okay. Let me       21       And I cant tell you exactly what he         23       Did you as the property owner or       22       said, but I believe he wrote that and I believe,         23       Did you as the property owner or       24       Q. Wittman Ford Company as the property owner         24       Whitman Ford Company as the property owner or       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       25       Mr. Frances made an attempt to clear the air or         19       you felt were inaccurate statements being       1       accurately state what was transpiring?         2       A. I had private convestations with people. People       5       I don't know if I would characterize         6       we would corner setwith them. I had private       9       2       Characterizing this as a vote? If they were         10       1b dat.	1	5 circulated concerning that?	15	misinformation or disinformation on what has	
18       that you would cooperate with your attorney and       18       somebody elected like that makes that kind of         19       provide that?       19       statement, you know, if thisk maybe truthful         20       A. Yeah.       20       information should come forth, yeah.         21       Q. If it is at all relevant, but – okay. Let me       21       And I can't tell you exactly what he         23       Did you as the property owner or       23       again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner or       23       again, I could produce that for you, Phil.         25       undertake any steps whatsoever to conteract what       25       Mr. Frances made an attempt to clear the air or         Page 99       Page 101       1       accurately state what was transpiring?         2       circulated in support of this referendum?       3       A. He wrote that piece. I don't know if I could         5       A. Publicly or privately or       4       transpiring or clear the air.         7       disappointed or mad about what was happening and we would converse with them. I had private       9       Characterize tha socurately state what was transpiring?         10       I believe everybody in the Township had       10       Going to support - if a registered voter in         12       Q.	1		16	happened.	
18       that you would cooperate with your attorney and       18       somebody elected like that makes that kind of         19       provide that?       19       statement, you know, if thisk maybe truthful         20       A. Yeah.       20       information should come forth, yeah.         21       Q. If it is at all relevant, but – okay. Let me       21       And I can't tell you exactly what he         23       Did you as the property owner or       23       again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner or       23       again, I could produce that for you, Phil.         25       undertake any steps whatsoever to conteract what       25       Mr. Frances made an attempt to clear the air or         Page 99       Page 101       1       accurately state what was transpiring?         2       circulated in support of this referendum?       3       A. He wrote that piece. I don't know if I could         5       A. Publicly or privately or       4       transpiring or clear the air.         7       disappointed or mad about what was happening and we would converse with them. I had private       9       Characterize tha socurately state what was transpiring?         10       I believe everybody in the Township had       10       Going to support - if a registered voter in         12       Q.	1	7 Q. And so in a request to produce if I asked for	17	So I think if a township official or	
19       provide that?       19       statement, you know, I think maybe truthful         20       A. Yeah.       20       information should come forth, yeah.         21       Q. If it is at all relevant, but - okay. Let me       21       And I can't tell you exactly what he         22       ask you this.       22       said, but I believe he wrote that and I believe,         23       Did you as the property owner or       23       again, I could produce that for yon, Phil.         24       Whilman Ford Company as the property owner       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       25       Page 101         26       relation should come that prove that pro	l l		18		
20       A. Yeah.       20       information should come forth, yeah.         21       Q. If it is at all relevant, but – okay. Let me ask you this.       21       And I can't tell you exactly what he         23       Did you as the property owner or undertake any steps whatsoever to counteract what       22       said, but I believe he wrote that and I believe, again, I could produce that for yon, Phil.         24       Whitman Ford Company as the property owner or undertake any steps whatsoever to counteract what       25       Okay. Well, is it your testimony that         25       you felt were inaccurate statements being chronic testimony that       25       Mr. Frances made an attempt to clear the air or         26       You felt were inaccurate statements being chronic testimony that       26       A. He wrote that pice. I don't know if I could         3       A. Publicly?       A. He drivate conversations with people. People       5       I don't know if I would characterize         6       would come up to me and the company and be very disappointed or mad about what was happening and awe would converse with them. I had private       5       I son't know if I would characterize         7       Q. Ish f far to say that you did not hire a public       7       Q. Ish 't true that you were upset or concerned         8       we would converse with them. I had private       9       conversations with different people.         9       that th	1	9 provide that?	19		
22       ask you this.       22       said, but I believe he wrote that and I believe, again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner or       23       again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner or       24       Q. Okay. Well, is it yoor testimony that         25       undertake any steps whatsoever to counteract what       25       Page 101         26       reaction support of this referendum?       2       A. He wrote that piece. I don't know if I could         2       circulated in support of this referendum?       2       A. He wrote that piece. I don't know if I could         3       A. Publicly?			20		
22       ask you this.       22       said, but I believe he wrote that and I believe,         23       Did you as the property owner or       23       gain, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       25       Mr. Frances made an attempt to clear the air or         24       You felt were inaccurate statements being       1       accurately state what was transpiring?         2       chrenheid in support of this referendum?       2       A. He wrote that piece. I don't know if I could         3       A. Publicly?       3       characterize it as accurately stating what was         4       U. Either publied or privately or       4       transpiring or clear the air.         5       A. I had private conversations with people. People       5       I don't know if I would characterize         6       would converse with them. I had private       9       characterizing this as a vote? If they were         9       conversations with different people.       9       characterizing this as a vote? If they were         10       I believe everybody in the Township had       10       geing to support - if a registered voter in         11       that.       12       <	1		21	And I can't tell you exactly what he	
23       Did you as the property owner or       23       again, I could produce that for you, Phil.         24       Whitman Ford Company as the property owner       24       Q. Okay. Well, is it your testimony that         25       undertake any steps whatsoever to counteract what       25       Mr. Frances made an attempt to clear the air or         26       you felt were inaccurate statements being       1       accurately state what was transpiring?         2       c. trenlated in support of this referendum?       2       A. He wrote that piece. I don't know if I could         3       A. Publicly?       3       A. He wrote that piece. I don't know if I could         4       Q. Either publicly or privately or -       4       transpiring or clear the air.         5       A. I had private conversations with people. People       5       I don't know if I would characterize         6       would converse with them. I had private       9       characterizing this as a vote? If they were         9       conversations with different people.       9       characterizing this as a vote? If they were         10       I believe everybody in the Township had       10       Bedford Township was going to support the         12       P. is it far to say that you did not hire a public       12       referendum?         13       relations firm or anyone like tha			22		
25       undertake any steps whatsoever to conteract what       26       Mr. Frances made an attempt to clear the air or         Page 99       Page 101         1       you felt were inaccurate statements being       1       accurately state what was transpiring?         2       circulated in support of this referendum?       A. He wrote that piece. I don't know if I could         3       A. Publicly?       A. He wrote that piece. I don't know if I could         4       Q. Either publicly or privately or –       4         5       A. I had private conversations with people. People       5         6       would converse with them. I had private       6         9       conversations with different people.       9         9       conversations with different people.       9         10       I believe everybody in the Township had       10         11       that.       11         12       Q. Is it fair to say that you did not hire a public       12         13       relations firm or anyone like that to mount a       13         14       campaign against what was being stated publicly       15         15       by those who were promoting the referendum?       16         16       Q. Doyon have an opinion one way or the other       17         17 <td></td> <td>F. P. P. P</td> <td>23</td> <td></td> <td>100</td>		F. P. P. P	23		100
Page 99Page 1011you felt were inaccurate statements being circulated in support of this referendum?1accurately state what was transpiring?2A. Publicly?2A. He wrote that piece. I don't know if I could characterize it as accurately stating what was4Q. Either publicly or privately or for an about what was happening and 8 we would converse with them. I had private 9 conversations with different people.4I don't know if I would characterize 6 that, Phil.7disappointed or mad about what was happening and 8 we would converse with them. I had private 9 conversations with different people.7Q. Isn't it true that you were upset or concerned 		Fight of the second sec	24	Q. Okay. Well, is it your testimony that	
1       you felt were inaccurate statements being circulated in support of this referendum?       1       accurately state what was transpiring?         3       A. Publicly?       2       A. He wrote that piece. I don't know if I could characterize it as accurately stating what was         4       Q. Either publicly or privately or -       4       transpiring or clear the air.         5       A. I had private conversations with people. People       5       I don't know if I would characterize         6       would cone up to me and the company and be very       6       that, Phil.       7         7       disappointed or mad about what was happening and we would converse with them. I had private       6       Isn't it true that you were upset or concerned         9       conversations with different people.       9       characterizing this as a vote? If they were         10       I believe everybody in the Township had       10       going to support - if a registered voter in         11       that.       11       Bedford Township was going to support the         12       relations firm or anyone like that to mount a       13       Was that being         14       campaign against what was being stated publicly       14       A. Support the referendum?         15       by those who were promoting the referendum?       15       Q. Meaning that -	25	5 undertake any steps whatsoever to counteract what	25	Mr. Frances made an attempt to clear the air or	
1       you felt were inaccurate statements being circulated in support of this referendum?       1       accurately state what was transpiring?         3       A. Publicly?       2       A. He wrote that piece. I don't know if I could characterize it as accurately stating what was         4       Q. Either publicly or privately or 5       4       He wrote that piece. I don't know if I would characterize         6       would come up to me and the company and be very 7       5       I don't know if I would characterize         7       disappointed or mad about what was happening and 8       We would converse with them. I had private 9       6       Isn't it true that you were upset or concerned 8         9       conversations with different people. 9       10       Ish't if true that you were upset or concerned 9       11         10       1       beider everybody in the Township had 10       10       going to support - if a registered voter in 11         11       that. 12       relations firm or anyone like that to mount a 13       13       Was that being 14         14       campaign against what was being stated publicly 15       by those who were promoting the referendum? 15       14       A. Support the referendum? 15         18       Q. Do you have an opinion one way or the other 17       18       A. What did the vote mean. 18       A. What did the vote mean. 19       BY MR. GOLDSMITH: 20		Page 99	<b>.</b> .	Page 101	120 Hotel 10
2circulated in support of this referendum?3A. Publicly?4Q. Either publicly or privately or -5A. I had private conversations with people. People6would come up to me and the company and be very7disappointed or mad about what was happening and8we would converse with them. I had private9conversations with different people.10I believe everybody in the Township had11that.12Q. Is it fair to say that you did not hire a public13relations firm or anyone like that to mount a14campaign against what was being stated publicly15by those who were promoting the referendum?16A. Other than these private conversations I didn't16A. Other in your belief the Township should have17do anything publicly.18Q. Do you have an opinion one way or the other19whether in your belief the Township should have20done anything in response to inaccurate20done anything in response to inaccurate21statements if in fact they were inaccurate22because I'm not sure what statements were made,23about statements that were being made by those	J		11	-	the second s
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about statements that were being made by those 23 remain the same?		-			
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the second					
24       who promoted the referendum?       24       A. So overtum       25         25       A. What's your question again?       25       MR. HANSON: Remain the same as of May		-			Set a re-
25   A. What's your question again?     25   MR. HANSON: Remain the same as of May	<u>دم</u>	A. whats your question again?	15	MR. HANSON: Kemain the same as of May	

26 (Pages 98 to 101)

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## Jon Whitman June 15, 2010

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		Page 102		Page 104
	1	4 or remain the same as of let's put it this	1	the current time?
	2	way. Support the referendum equals support	2	MR. HANSON: Let me just make sure I'm
	3	Bedford Watch?	3	clear only because I believe there might have
		MR, GOLDSMITH: Yes because the zoning	4	been more than one contract with Wal-Mart.
	4		5	You're talking about the Wal-Mart contract that
	5	never changed once the notice of intent to seek a	6	was entered into in the course of the settlement
	6	petition and seek a referendum is filed, at least		
	7	according to the Zoning Enabling Act, the zoning	7	negotiations?
	8	doesn't change until there's a petition that's	8	BY MR. GOLDSMITH:
	9	qualified by the clerk and a vote a ballot	9	Q. The last Wal-Mart contract, the last Wal-Mart
	10	vote is taken, but	10	contract I think that was referred to in your –
·	11	MR. HANSON: There was an ordinance	11	in this lawsuit, in your Complaint. That that
	12	amendment, but it just	12	contract expired, is that a fair statement?
•	13	MR. GOLDSMITH: It never took effect.	13	<ol> <li>My contracts with Wal-Mart have expired.</li> </ol>
	14	MR. HANSON: Got it.	14	Q. Since the last if there was more than one
÷	1.5 B	Y MR. GOLDSMITH:	15	since the last Wal-Mart contract expired has the
	16 <b>Q</b>	. So what your attorney said is, I guess, what I'm	16	Whitman Ford Company entered into a contract with
	17	asking. To support the referendum would be to	17	anyone else for a sale of all or a portion of the
	18	support what Bedford Watch was promoting?	18	Whitman Ford Company property that is the subject
	19 A	. Okay, and your question is?	19	of this lawsuit?
		. I forgot my question. My question is, isn't it	20	A. A contract?
	21	true that those in support of the referendum were	21	Q. Well, let's start with that, a sales contract,
	22	characterizing this as a vote in support of the	22	let's start with that.
	23	referendum was in essence a vote against a	23	A. A sales contract means I'm going to buy, is that
	24	Wal-Mart?	24	what you're saying?
		. Among others things, I would agree with that	25	Q. Yes.
		Page 103		Page 105
·			1	A. No.
	1	statement.	2	O. Has the Whitman Ford Company entered into an
		Do you recall what other things?	3	option with any entity after the last Wal-Mart
· · · ·	1	. Well, they threw a lot of things out there, Phil.	t	contract expired for an option on the Whitman
	4	I mean it was going to bring crime, it was going	4	Ford Company property?
	5	to bring the sewers were going to overflow.	6	A. Yes.
	6	The roads would never be the same. It would ruin		Q. And with whom?
	7	your property values throughout the entire	7	A. Rudolph Libby.
	8	township.	8	
	9	There were a number of things that I	9	<ul> <li>Q. And Rudolph Libby is a developer?</li> <li>A. Rudolph Libby is a twin of Rudolph Libby.</li> </ul>
	10	can't recall in addition to that and besides just	10	<ul> <li>Q. And they do design, build, develop construction,</li> </ul>
	11	a Wal-Mart store I mean it was going to kids	11	
	12	weren't going to be safe at school effectively.	12	is that accurate? A. That's my opinion, that's my understanding.
	13	It was unbelievable what was said, it	13	
-	14	was unbelievable.	14	
	1 -	. Going back to the prior litigation, I believe	15	<ul><li>A. Sometime in 2007.</li><li>Q. Has that option expired or is it still operable?</li></ul>
an dia kaominina dia kaomin Ny INSEE dia mampinina dia kaominina dia kaominina dia kaominina dia kaominina dia kaominina dia kaominina dia k	16	it's alleged in your Complaint that at one point	16	
	17	in time Whitman Ford Company had a contract with	17	<ul><li>A. It ended.</li><li>Q. Do you know whether or not Rudolph Libby was</li></ul>
	18	•••••••••••••••••••••••••••••••••••••••	18	Q. Do you know whether or not knowly was acting as an intermediary for any other entity?
n meninikani na jiwan ninise Ali	19	Ford Company property, is that accurate?	19	
	L	Yes.	20	<ul> <li>A. I don't have that knowledge.</li> <li>O. Does anyone who acts on your behalf as an agent.</li> </ul>
· 2017년 2017년 - 1917년 - 1917년 - 1917년 - 1917년 - 1917년 - 1917년		). And did that contract expire?	21	
$\mathcal{F} = \{ (x_1, x_2) : (x_1, \dots, x_n) \} = 0 $		Yeah.	22	have any knowledge concerning that?
		2. Since that time has Whitman Ford Company entered	23	MR. HANSON: Object to foundation.
	24	into a contract to sell any portion of the	24	A. Not to my knowledge. BY MR. GOLDSMITH:
	25	Whitman Ford Company property from that time to	25	
	2	Williaman Ford Company property retering		

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27 (Pages 102 to 105)

Jon Whitman June 15, 2010

Page 1061Q. You're aware that Bedford Township undertook or at least started the process for a township- initiated rezoning of what has sometimes been1that events ran their course because of th the Township did things, but in any even 33initiated rezoning of what has sometimes been3MR. HANSON: Is your question 44referred to as the middle Whitman Ford parcel, 54MR. GOLDSMITH: Let me re- question.5the 8.28 acre parcel that you proposed to be5question.6rezoned from R-2A to C-2?6MR. HANSON: Okay.7You're aware of that, correct?7BY MR. GOLDSMITH:8A. Yes.8Q. Let's assume that five of the six parce9Q. It's my understanding let me just ask you9were rezoned were actually let's set10this.10referendum. If a referendum would H occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned them, would a poen to any suggestions by the Towns14A. No.14open to any suggestions by the Towns1515Q. Adam Young was asked during his deposition by15the middle parcel, the 8.28 acre parcel	t
1Q. Foure aware that field it forms for a town ship2the Township did things, but in any even2at least started the process for a township-2the Township did things, but in any even3initiated rezoning of what has sometimes been3MR. HANSON: Is your question4referred to as the middle Whitman Ford parcel,4MR. GOLDSMITH: Let me re-5the 8.28 acre parcel that you proposed to be5question.6rezoned from R-2A to C-2?6MR. HANSON: Okay.7You're aware of that, correct?7BY MR. GOLDSMITH:8A. Yes.8Q. Let's assume that five of the six parce9Q. It's my understanding let me just ask you9were rezoned were actually let's set10this.10referendum. If a referendum would H11Did anyone connected with Bedford11occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned them, would13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Towns	t
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7You're aware of that, correct?7BY MR. GOLDSMITH:8A. Yes.8Q. Let's assume that five of the six parce9Q. It's my understanding let me just ask you9were rezoned were actually let's set10this.10referendum. If a referendum would H11Did anyone connected with Bedford11occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned them, would13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Towns	
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9Q. It's my understanding let me just ask you9were rezoned were actually let's set10this.10referendum. If a referendum would here11Did anyone connected with Bedford11occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned the13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Towns	els that
10this.10referendum. If a referendum would here11Did anyone connected with Bedford11occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned the13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Towns	aside the
11Did anyone connected with Bedford11occurred for purposes of this question12Township consult with you prior to undertaking12five of the six parcels were rezoned the13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Township	ave never
12Township consult with you prior to undertaking12five of the six parcels were rezoned the13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Towns	, and the
13that township-initiated rezoning of that parcel?13Township board rezoned them, would14A. No.14open to any suggestions by the Township	e way the
14 A. No. 14 open to any suggestions by the Towns	you have been
	hip to rezone
15 O. Adam Young was asked during his deposition by 15 the induce particity the old act the particity of the old act the old act the particity of the old act the	l, to
16 your attorney if he knew whether you were 16 something other than C-2?	
17 consulted about the township-initiated rezoning 17 MR. HANSON: And let me, A,	object to
18 and I think he responded to that question. 18 the extent it's an incomplete hypothetica	l. I'm
19 I believe the purpose for which was to 1.9 going to, B, object to the form and ask a	
20 determine whether you would agree to some other 20 clarifying question.	
21 zoning configuration for that 8.28 acre parcel. 21 Are you asking the entire parcel z	oned
22 Do you recall that question? 22 to anything other than C-2 or are you as	king for
23 A. No. 23 some different configuration of the parc	
24 Q. Let me just ask you this question. 24 you asking if the township had initiated	an
25 You just testified that you were not 25 administrative rezoning on all the parce	
	Page 109
Page 107	
1       consulted. If you had been consulted by anyone       1       had some different configuration?         2       from Bedford Township and asked whether you would       2       You know, I think it's a really to	ouch
4 parcel, would you have entertained such a 4 Township might have proposed at that	r hour
5 suggestion? 5 BY MR. GOLDSMITH:	wandum ca
6 MR. HANSON: Object to the extent it's 6 Q. To clarify, again, set aside the refe	
7a hypothetical that never happened and thus calls7five of the six parcels were rezoned8for speculation, but you're free to answer.8rezoned by the Township which left	
5 Abi upbet and a set of the set	
9 A. I don't know what I would have done. 9 8.28 acre parcel R-2A because the t	on nanip and
10 BY MR, GOLDSMITH: 11 O As we sit here today, are you at all open to any 11 So just on that 8.28 acre parc	el would
	elv different
	that narcel
	ving C.2.
	1ans?
10 Daniel of Shiel Hubbs and	
19 MR-GOLDSMITH: Tou point is went in the decision.	
	m. and tell
	he's saving
o 4 in if the Township had come to your a	nd. again. T
25 MR. GOLDSMITH: Well, I guess I dispute 25 don't know how the question is answ	

28 (Pages 106 to 109)

Jon Whitman June 15, 2010

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ſ		Page 110		Page 112
	-	Phil, is your question if the Township	1	testimony?
	1	had come to you and said we're going to	2	A. Yes.
	2	administratively rezone the middle parcel by	3	Q. So that buffer area or separation distance from
	3	adding 15 feet to the two residential zones and	4	the west boundary would be 286 plus 60 or 80 plus
	4	we're going to put the rest of it C-2, is that	5	or minus, plus the setback and I believe the
	5	one of the possibilities in your hypothetical?	6	figures that were used during Dennis Jenkins'
	6	MR. GOLDSMITH: That's one of the	7	testimony or his deposition would have put it
	7		8	close to 400 feet.
	8	possibilities, yes. MR. HANSON: Or one foot to the RME and	9	Do you recall that?
	9		10	A. It was something like that.
	10	the MR-2. MR. GOLDSMITH: That's one of the	11	Q. And I think it was represented or the question
	11		12	was asked that if there was a building, a
	12	possibilities. <b>MR. HANSON:</b> I mean that's I guess	13	commercial building, erected on that C-2 parcel,
	13		14	that building would have been no closer than 400
	1.4	you know, so is there if the question is, is	15	feet from the west boundary of the Whitman Ford
	15	there any conceivable other layout or zoning for	16	parcel, do you remember that?
ł	16	that middle parcel that Mr. Whitman would have	17	MR. HANSON: Object to foundation, but
	17	considered, if that's the question.	18	go ahead.
	18	Again, I mean again I think it calls	19	A. No closer to the Whitman Ford parcel?
	19	for speculation, but Jon, you can	20	BY MR. GOLDSMITH:
	20	A. Any conceivable, yes.	21	Q. To the Whitman Ford boundary, the west boundary
	21	BY MR. GOLDSMITH:	22	of the Whitman Ford parcel.
	22	Q. With respect to the protection of the Indian	23	MR. HANSON: The boundary between
	23	Acres Subdivision to the west of the Whitman Ford	24	Whitman Ford and Indian Acres?
	24	Company boundary, that's been talked about in	25	MR. GOLDSMITH: Right.
	25	this litigation in some of the depositions,	25	
		Page 111		Page 113
	1	correct?	1	A. So what is
	2	A. Yes.	2	BY MR, GOLDSMITH:
	З	Q. With respect to that issue, there was some	3	Q. To Indian Acres?
	4	discussion yesterday during Adam Young's	4	A. Indian Acres. Is your question 400 feet?
	5	deposition that from that boundary line, from the	5	Q. Yes.
	6	west boundary line of the Whitman Ford property	6	A. Something like that, yeah.
	7	going to the east you have 286 feet, correct, for	7	Q. Now, having stated all of that, that would
	8	the RME and the RM-2 parcels, correct?	8	require though the conceptual road actually being
	9	A. That's been answered, Phil, yeah.	9	built, would you agree with that?
	10	Q. So in addition to that it was suggested that	10	A. Yes.
	11	and I think during Dennis Jenkins' deposition	11	Q. Because otherwise the separation distance would
	12	Mr. Hanson was suggesting that that separation	12	be no more than 286 feet if some other type of
	13	distance is even greater if you take into account	13	access were created to those RME and RM-2
	14	the conceptual roadway that's shown in the	14	parcels, is that a fair statement?
	15	conceptual plan prepared by DuBose do you	15	A. Yes, that's correct, that's fair.
	16	understand what I'm saying?	16	Q. You heard Adam Young's testimony yesterday
	17	A. Yes.	17	
	18	Q. So that's an additional do you have any	18	the township-initiated rezoning for the 8.28
n an ann an 1997. Tha an 1997 an tha chailte	1.9	knowledge as to how wide that road would have	19	
	20	been constructed, 60 feet, is that	20	You heard his testimony regarding that?
	21	-A. I thought it was 60 or 80 feet and L can't	21	
	22	remember.	22	Q. And I believe and I'll paraphrase, but he
	23	Q. And then you would add to that whatever setback	23	testified and his letter states that PBO is an
	24	would be required in the middle parcel if in fact	24	acceptable transitional zoning parcel for that
	25	it was rezoned to C-2, do you remember that	25	particular parcel.
	20	11 1780 1000000 00 00 mg y		

29 (Pages 110 to 113)

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Jon Whitman June 15, 2010

	<u> </u>	D 114	ĺ	Page 11
		Page 114		
	1	Do you remember him stating that?	1	successful, at least from the perspective of
	2	A. Yes.	2	those who promoted the referendum.
1	3	Q. And I think he also, in all fairness, said in	3	So based on that, the property to the
	4	prior reports that C-2 in his opinion would also	4	west of the Whitman Ford dealership is all R-2A
	5	be an appropriate transitional zoning	5	with the exception of the existing C-2, is that
	6	classification, do you remember that?	6	accurate?
	7	A. Yes.	7	Is that your understanding?
	8	Q. And if the conceptual road were to be	8	A. To the west?
	9	constructed, access and frontage would be	9	Q. To the west.
	10	afforded to that parcel, whether it was zoned C-2	10	A. Yes.
	11	or PBO or whether it was zoned some other zoning	11	Q. The remaining property along Lewis Avenue and the
	12	classification, is that accurate?	12	portion directly to the west of the utility
	13	MR. HANSON: Again, I'll just object to	13	substation is C-2, correct, with the exception of
	14	the extent that my understanding is that parcel	14	the dealership property?
	15	as it sits today if it were rezoned C-2 and	15	A. Yes.
	16	stayed joined with the parcel that is currently	16	Q. It has been suggested in many, I suppose,
	17	zoned C-2, both on Lewis and on Sterns, I think	17	conversations over the past several years that a
	18	that it has access.	18	retail establishment could be constructed along
	19	So I guess my question or my objection	19	Lewis Avenue on those C-2 and C-3 parcels.
		is that the question assumes facts that aren't in	20	You've heard those comments, correct?
	20 21	evidence, but	21	A. Yes.
	1	MR. GOLDSMITH: There's some	22	Q. Have you considered doing that? Have you
	22	assumptions made if that road were built and I	23	considered developing those parcels which would
	23	don't necessarily disagree with you. Yeah, it	24	allow a larger scale commercial development along
	24	has access as it currently sits today.	25	the Lewis Avenue corridor?
	25	Page 115	1	Page 1
		Ŭ	1	A. Yes.
	1	MR. HANSON: And I guess, you know,	2	Q. Have you marketed and leaving the property to
	2	there's some definitional issues with regard to	3	the west that's currently zoned residential as
	3	what exactly does "landlocked" mean, what does	4	residential?
	4	"road" mean.	5	A. No, I reapplied for zoning to market it. I mean
	5	We get into some fairly meaty planning	6	I-
	6	words that have some very different definitions		Q. But now the way the property sits, it's
	7	depending on how they're used. But having said	7	residential to the west of the dealership and
	8	all that, I suspect you're going to need to reask	8	commercial both C-2 and C-3 on Lewis Avenue. M
	9	the question now.	9	question is, have you considered or have you
	1	BY MR. GOLDSMITH:	10	HINESCHON IN. HAVE YOU CONSIDERED OF HAVE YOU
	10			
	10 11	Q. Basically my question is, if the conceptual road	11	negotiated with anyone to sell those parcels for
		Q. Basically my question is, if the conceptual road were actually constructed that's shown on the	12	negotiated with anyone to sell those parcels for the purpose of a commercial development
	11	Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most – the latest	12 13	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance
	11 12	Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road	12 13 14	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential?
	11 12 13	Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to	12 13 14 15	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a
	11 12 13 14	Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most — the latest edition of the DuBose drawings — if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what	12 13 14 15 16	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil?
	11 12 13 14 15	Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most — the latest edition of the DuBose drawings — if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?	12 13 14 15 16 17	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR: GOLDSMITH: Well, I guess at
	11 12 13 14 15 16	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> </ul>	12 13 14 15 16 17 18	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH:
	11 12 13 14 15 16 17	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is a statement of the parcel is a statement.</li> </ul>	12 13 14 15 16 17 18	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Q. Let's start with a broad question, at any time;
	11 12 13 14 15 16 17 18	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is situated is the way it's been for the last many</li> </ul>	12 13 14 15 16 17 18	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Q. Let's start with a broad question, at any time: MR. HANSON: And I guess well, you
	11 12 13 14 15 16 17 18 19	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is situated is the way it's been for the last many years. The zoning is back I guess it never.</li> </ul>	12 13 14 15 16 17 18	negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Q. Let's start with a broad question, at any time: MR. HANSON: And I guess well, you can answer the question, Jon.
	11 12 13 14 15 16 17 18 19 20	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is situated is the way it's been for the last many years. The zoning is back I guess it never changed based on the law because of the notice of</li> </ul>	12 13 14 15 16 17 18 20	<ul> <li>negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Q. Let's start with a broad question, at any time. MR. HANSON: And I guess well, you can answer the question, Jon.</li> <li>A. Phil, in the previous trial Landry very</li> </ul>
	11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is situated is the way it's been for the last many years. The zoning is back I guess it never the notice of</li> </ul>	12 13 14 15 16 17 18 20 21	<ul> <li>negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential? MR. HANSON: Are you talking about a specific time period, Phil? MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH:</li> <li>Q. Let's start with a broad question, at any time. MR. HANSON: And I guess well, you can answer the question, Jon.</li> <li>A. Phil, in the previous trial Landry very specifically had every copy of every offer we</li> </ul>
	11 12 13 14 15 16 17 18 19 20 21	<ul> <li>Q. Basically my question is, if the conceptual road were actually constructed that's shown on the DuBose drawings and the most the latest edition of the DuBose drawings if that road were in fact constructed there would be access to that parcel, the 8.28 acre parcel, no matter what the zoning classification was, correct?</li> <li>A. Correct.</li> <li>Q. Right now the way the Whitman Ford parcel is situated is the way it's been for the last many years. The zoning is back I guess it never.</li> </ul>	12 13 14 15 16 17 18 20 20 21 22	<ul> <li>negotiated with anyone to sell those parcels for the purpose of a commercial development recognizing that the other property, the balance of the property, is zoned residential?</li> <li>MR. HANSON: Are you talking about a specific time period, Phil?</li> <li>MR. GOLDSMITH: Well, I guess at BY MR. GOLDSMITH:</li> <li>Q. Let's start with a broad question, at any time. MR. HANSON: And I guess well, you can answer the question, Jon.</li> <li>A. Phil, in the previous trial Landry very</li> </ul>

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Jon	Whit	tman
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			Page 120
-4	would have to dig them up. I mean	1	to sell the property.
1	BY MR. GOLDSMITH:	2	Q. You or Whitman Ford Company does not want to
2	Q. Well, I think those offers, if I remember from	3	develop it, you would prefer to sell it as a
3	A. You negotiated a lot of them.	4	whole?
4	<ul> <li>A. You negotiated a lot of ment.</li> <li>Q. And I think those offers didn't envision just</li> </ul>	5	A. Given I would prefer that, yes, yes.
5	utilization of the existing C-2 and C-3, but	6	Q. Are there any other variations that have been
6	utilization of the entire 43 acre parcel, is that	7	presented to you that you've considered or that
7	-	8	the company has considered with respect to the
8	a fair statement?	9	disposition of the property?
9	<ul><li>A. Yeah.</li><li>Q. What I'm asking is, did you at any time consider</li></ul>	10	MR. HANSON: I'll object to the form.
0	just utilizing what's currently zoned C-2 and C-3	11	A. Now, Phil, again we have been presented in the
1	just utilizing what's currently zoned C-2 and C-5	12	past and again you've helped negotiate some of
2	for the development of a for a commercial	13	these other things on different whatever
.3	development leaving the residential to the west	14	your word exactly was that are different than
.4	as residential?	15	this layout.
.5	A. I have never had an offer come to me that I've	16	That has been presented to us, yes.
.6	turned down on just that example.	17	BY MR. GOLDSMITH:
.7	Q. Let me make sure I understand. Do I understand	18	Q. But those many years ago envisioned use of the
8	you to say that you've never had an offer come to	19	entire property, right?
.9	you to purchase the Whitman Ford property as it	20	A. Yes.
0	is currently zoned?	21	Q. I'm talking currently, if the judge were to
1	A. Correct.	21	decide in your favor do you have
2	Q. Do you know whether or not Mr. Lennox on your	1	A. Currently, no.
3	behalf has attempted to market the property in	23	Q. Let me check my notes. I think I'm either done
4	that fashion?	24 25	or close to being done here.
25	A. I could not answer that.	25	Page 12
	Page 119		_
1	Q. He currently is the broker who has – does he	1	(Pause.)
2	have an active or current listing agreement on	2	Q. What's your understanding if you have any
3	the parcel?	3	understanding of who your witnesses will be at
4	A. Yes.	4	trial?
5	Q. How long has he had the property listed?	5	MR. HANSON: Object to the foundation.
6	A. This is about 10 to 12 years.	6	A. I don't have an understanding.
7	Q. And it's been listed with him consistently for	7	MR. GOLDSMITH: I'm done.
8	that period of time?	8	MR. HANSON: All right, this concludes
9	A. Whatever the time period is.	9	the deposition of Mr. Jon Whitman.
10	Q. If in this litigation Judge Costello ruled in	10	(The deposition was concluded at 1:34 p.m.,
11	your favor and entered an injunction against the	11	signature of the witness was not requested by
12	Township which would prevent the Township from	12	counsel for the respective parties hereto)
13	imposing its zoning ordinance against this	13	
14	property and would allow you to use this property	14	1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 -
15	as you requested in your zoning application, if	.15	
16	that happened or happens do you have any offers	.16	
17	waiting in the wing or proposals waiting in the	17	
18	wing from any prospective developers or	18	17. 19. 19. 19. 19. 19. 19. 19. 19. 19. 19
10 19	purchasers?	- 19	المعمد المراجع والمعادية المعادية والمعادية والمراجع والمعادية والمعادية والمعادية والمعادية والمعادية والمعاد
19 20	A. No.	20	
20 21	Q. Do you have any development plans for the parcel	21	and the second secon
21 22	if that were to happen, if the judge ruled in	22	والمستقاد والمراجر المراجع
22 23	your favor and you were allowed to use the parcel	23	
1.5	your layor and you here another to the P	24	
24	as you applied for in your rezoning application?	147	

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Jon Whitman June 15, 2010



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