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Transcript of the Testimony of
Michael Darga

Date: February 20, 2019

Volume:

Case: Hack and Beaulieu-Hack v. The Charter Township of
Milford, et al.

Printed On: May 27, 2019

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<p>Page 1</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <p>JOEL Q. HACK, an individual, and WREN BEAULIEU-HACK, an individual,</p> <p>Plaintiff,</p> <p>vs. Case No. 2:18-cv-1333 Hon. Marianne O. Battani</p> <p>THE CHARTER TOWNSHIP OF MILFORD, a Michigan municipal corporation, TOWNSHIP OF MILFORD BOARD, a public body, DONALD D. GREEN, in his personal capacity and in his official capacity as Supervisor of Milford Township, and TIMOTHY C. BRANDT, in his personal capacity and in his official capacity as Building and Zoning Administrator of Milford Township,</p> <p>Defendants.</p> <p>-----</p> <p>DEPOSITION OF MICHAEL DARGA, taken on Wednesday, February 20, 2019, at 25800 Northwestern Highway, Suite 400, Southfield, Michigan, at 2:05 p.m., pursuant to notice.</p> <p>REPORTED BY: LAURI A. SHELDON, RPR, CSR 4045</p>	<p>Page 3</p> <p>WITNESS INDEX</p> <p>Witness Page</p> <p>MICHAEL DARGA February 20, 2019</p> <p>Examination by MR. CRONKHITE5</p>
<p>Page 2</p> <p>A P P E A R A N C E S</p> <p>Appearing for Plaintiff: R.J. CRONKHITE (P78374) MADDIN, HAUSER, ROTH & HELLER, P.C. 28400 Northwestern Highway Second Floor Southfield, Michigan 48034 248-351-7017 rcronkhite@maddinhauser.com</p> <p>Appearing for Plaintiffs.</p> <p>Appearing for Defendant:</p> <p>JAMES E. TAMM (P38154) O'CONNOR, DEGRAZIA, TAMM & O'CONNOR, P.C. 40701 Woodward Avenue, Suite 105 Bloomfield Hills, Michigan 48303 248-433-2000 jetamm@odtlegal.com</p> <p>Appearing for Defendants.</p> <p>KEVIN J. GLEESON SULLIVAN, WARD, ASHER & PATTON, PC 25800 Northwestern Highway, 1000 Maccabees Center Southfield, Michigan 48075 248-746-0700</p> <p>Appearing for witness, Michael Darga.</p>	<p>Page 4</p> <p>E X H I B I T I N D E X</p> <p>(Exhibits attached)</p> <p>Exhibit Description Page</p> <p>Exhibit 1 Subpoena6</p> <p>Exhibit 2 Documents pertaining to subpoena7</p> <p>Exhibit 3 Letter37</p> <p>Exhibit 4-1 Site Plan41</p> <p>Exhibit 4-2 First page of Exhibit 4-142</p> <p>Exhibit 5 Email61</p> <p>Exhibit 6 Email70</p> <p>Exhibit 7 Emails72</p> <p>Exhibit 8 Site Plan85</p> <p>Exhibit 9 Email88</p> <p>Exhibit 10 Email89</p> <p>Exhibit 11 Email97</p> <p>Exhibit 12 GIS County Map98</p> <p>Exhibit 13 Map99</p> <p>Exhibit 14 Email107</p> <p>Exhibit 15 Photograph129</p> <p>Exhibit 16 Part of GIS County Records136</p>

1 (Pages 1 to 4)

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1 February 20, 2019
 2 Southfield, Michigan
 3 2:05 p.m.
 4
 5
 6
 7
 8 MICHAEL DARGA
 9 having been duly sworn testified as follows:
 10 MR. CRONKHITE: Mr. Darga, we've met before.
 11 I am the attorney for Joel and Wren Hack in litigation
 12 against Milford and related parties.
 13 *** ** *
 14 EXAMINATION
 15 BY MR. CRONKHITE:
 16 Q Would you state your full name for the record, sir?
 17 A Michael Paul Darga, Jr.
 18 Q Is it okay if I call you Mike?
 19 A That's fine. Yes.
 20 Q Mike, have you been deposed before?
 21 A Yes.
 22 Q Okay. When were you last deposed?
 23 A A while ago. Probably ten years ago.
 24 Q Okay. Was it just one deposition?
 25 A Yes.

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1 Q Okay. What kind of case was it?
 2 A Sanitary sewer.
 3 Q Were you an engineer on a project regarding a sanitary
 4 sewer?
 5 A Yes.
 6 Q And that's what you were deposed regarding?
 7 A Yes.
 8 Q So you understand what a deposition entails?
 9 A Yes.
 10 Q Okay. So just so we're clear, I'm going to ask
 11 questions, you give answers. If you don't understand a
 12 question I ask, let me know, I'll rephrase it or ask a
 13 different question. If you answer my question, I'm
 14 going to assume you understand it. Is that fair?
 15 A That's fair.
 16 Q Okay. Did you review a subpoena at some point and
 17 provide it to -- provide documents to your attorney?
 18 A Yes.
 19 Q Okay. I'm going to hand you -- Let's mark this as
 20 Exhibit 1.
 21 (Exhibit 1 marked for identification)
 22 Q (Continuing by Mr. Cronkhite): Hand that to you, sir,
 23 and I'll give -- I've got copies for you guys. Here you
 24 go.
 25 Have you seen this document before, sir? Just

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1 take a look at it and let me know.
 2 A Yes.
 3 Q Okay. And then you'll see on this Exhibit 1 there's an
 4 Exhibit A to the subpoena if you flip it. Have you seen
 5 that before?
 6 A Yes.
 7 Q Okay. And did you look for the documents that are
 8 listed in this Exhibit 1 as identified in Exhibit A of
 9 that Exhibit 1?
 10 A Yes.
 11 Q Okay. And you provided those to your counsel?
 12 A Correct.
 13 Q Okay. I want to -- You can set that to the side, sir.
 14 I'm going to hand you what I'm going to mark as
 15 Exhibit 2.
 16 (Exhibit 2 marked for identification)
 17 Q (Continuing by Mr. Cronkhite): And take a look at that
 18 stack of documents marked as Exhibit 2. I'll give you a
 19 moment, because I understand it's like 50 pages.
 20 Do you recognize these documents, sir, marked
 21 as Exhibit 2?
 22 A They appear to be the documents that I sent over in
 23 regard to the subpoena.
 24 Q Okay. Sent over to your attorney?
 25 A Correct.

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1 Q How did you send those documents over? Was it via email
 2 or a hard copy?
 3 A It was email.
 4 Q Can you tell me, how did you go about looking for the
 5 documents that were identified in Exhibit 1, asked for
 6 in Exhibit 1?
 7 A I would have looked at my sent and received inbox.
 8 Q Okay. Your work email inbox?
 9 A Yes.
 10 Q Okay. What else?
 11 A Reviewed the file.
 12 Q Okay. When you say "reviewed the file," what does that
 13 mean?
 14 A When you're reviewing plans, you usually have a file
 15 with any -- any documents in it. Usually -- Emails
 16 usually aren't in it, but copies of the plans and
 17 usually the copies of review letters.
 18 Q Okay. This is a hard copy file at your office?
 19 A Correct.
 20 Q And you work with who, just so we're clear?
 21 A Hubbell, Roth and Clark.
 22 Q Okay. So -- And I'm going to call that HRC just for
 23 short.
 24 A Okay.
 25 Q So at HRC there's a hard copy file that relates to this

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1 particular piece of property.
 2 A Correct.
 3 Q Okay. And that's 2610 Pearson Road, Milford Township?
 4 Does that sound accurate?
 5 A Yes, that sounds correct.
 6 Q Okay. I'm just going to refer to that as the Hacks'
 7 property.
 8 A Okay.
 9 Q Rather than to it as the -- by the full address.
 10 A Sure.
 11 Q So you looked at your emails in your HRC work inbox.
 12 You looked at the hard copy file at HRC. What else did
 13 you look for?
 14 A That was it.
 15 Q Okay.
 16 A There wasn't much there.
 17 Q Who did you work with at HRC in regards to this
 18 property?
 19 A It just would have been me.
 20 Q What about Roland Alix?
 21 A He is one of the owners of the company that, I guess,
 22 would report to.
 23 Q Okay. You copied him on an email correspondence --
 24 A Correct.
 25 Q -- relating to this property, correct?

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1 A Correct.
 2 Q Okay. So he was involved in the project as well?
 3 A Yes. He was aware of it, but I don't -- He probably
 4 wouldn't know specifically what was going on.
 5 Q Okay. Is there a reason you copy him if he's not aware
 6 of what's going on?
 7 A Yeah. He's the partner in charge of Milford Township.
 8 Q You copy him to keep him abreast of what's going on.
 9 A Correct.
 10 Q Okay. So if he's copied on the correspondence that you
 11 sent regarding this project, it's fair to say that he's
 12 aware of what was going on.
 13 A Correct.
 14 Q Okay. Did you look for any emails between you and
 15 Mr. Alix in your inbox to respond to the subpoena?
 16 A Yes.
 17 Q Okay. And I didn't see any email between you and
 18 Mr. Alix in the documents that your attorney provided to
 19 me. Is it true that you never sent an email to Mr. Alix
 20 relating to this project?
 21 A I would have . . . I remember sending one with the
 22 announcement of the deposition.
 23 Q Okay.
 24 A So that -- that would have been the first time he really
 25 was involved other than being copied on emails.

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1 Q Okay. So you don't recall ever sending him an email,
 2 Alix an email, before the email you just referenced in
 3 regards to this property?
 4 A Correct.
 5 Q Okay. And you don't remember receiving an email from
 6 Alix?
 7 A From him, no.
 8 Q Okay. Do you text Roland Alix?
 9 A Yeah, occasionally.
 10 Q Did you ever text him in connection with this property?
 11 A No.
 12 Q What about this litigation?
 13 A No.
 14 Q Okay. And do you communicate with him in any other
 15 written format besides text and email?
 16 A No. I mean, the email and -- just the email would be
 17 the main form of communication.
 18 Q So I just want to make sure. So email, text, that's it.
 19 No other written form of communication with him?
 20 A Correct.
 21 Q Okay. Aside from Alix, was there anyone at HRC that you
 22 communicated with regarding this property?
 23 A No.
 24 Q Who created your HRC work file for this property?
 25 A I did.

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1 Q Okay. Is it in your actual -- Do you have an office at
 2 HRC's office?
 3 A Yes.
 4 Q Okay. And is the file located in your office?
 5 A Yes.
 6 Q Okay. I want to -- I want to talk about your
 7 educational and professional background. How old are
 8 you, sir?
 9 A 43.
 10 Q Okay. Where did you attend high school?
 11 A Lakeland High School.
 12 Q Lakeland High School. Where is that at?
 13 A It's in White Lake.
 14 Q Okay. Were you born and raised in Michigan?
 15 A Yes.
 16 Q Have you lived here your entire life?
 17 A Yes.
 18 Q Okay. You graduated from Lakeland what year?
 19 A 1993.
 20 Q Okay. And then did you attend college after that?
 21 A Yes.
 22 Q Okay. Where did you go?
 23 A Michigan State University.
 24 Q Okay. And when did you start attending MSU?
 25 A 1993.

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1 Q Okay. So you went right from high school to MSU?
 2 A Yes.
 3 Q When did -- Did you graduate from MSU?
 4 A Yes.
 5 Q When did you graduate?
 6 A 1998.
 7 Q Okay. What is your degree in?
 8 A Biosystems engineering.
 9 Q What kind of degree is that?
 10 A It used to be agricultural engineering. Now it's more
 11 natural resources.
 12 Q Is it BS or a BA or --
 13 A BS.
 14 Q Okay. Did attend any further schools other than
 15 Lakeland and MSU?
 16 A Yes. Cleary University.
 17 Q I'm sorry, can you say that again?
 18 A Cleary University.
 19 Q Cleary University. Where is that at?
 20 A It's in Genoa Township.
 21 Q Okay. And when did you start attending there?
 22 A 2009.
 23 Q 2009. Did you obtain any degrees --
 24 A Yes.
 25 Q -- from Cleary? What did you obtain?

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1 A MBA.
 2 Q MBA. When did you get that?
 3 A That would have been 2010.
 4 Q 2010. And did you have a certain specialty in the MBA?
 5 A Management.
 6 Q Management. Okay. So you've got a biosystems
 7 engineering BS. You've got an MBA with specialty in
 8 management. Any other degrees from institutions of
 9 higher learning?
 10 A Nope.
 11 Q Do you have any certificates relating to engineering?
 12 A I have a professional engineering license.
 13 Q Anything else?
 14 A No.
 15 Q Okay. When you graduated -- Well, let me ask you this:
 16 Were you working for an engineering outfit during your
 17 attendance at MSU?
 18 A No. I worked -- Well, I worked for the university, one
 19 of the professors, but that was --
 20 Q Did you do engineering work?
 21 A Yes.
 22 Q Okay. Was it paid?
 23 A Yes.
 24 Q Okay. Post graduation from MSU did you obtain a job in
 25 engineering?

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1 A Yes. With HRC.
 2 Q HRC.
 3 A Yes.
 4 Q When did you obtain that job?
 5 A 1999.
 6 Q Okay. What did you do in the period of time between '98
 7 when you graduated from MSU and you got the job with HRC
 8 in '99?
 9 A I worked in a restaurant.
 10 Q Okay. Have you worked continuously with HRC since 1999?
 11 A Yes.
 12 Q Okay. What did you join as?
 13 A Graduated -- Well, a field inspector.
 14 Q Field inspector. And then how long did you occupy
 15 that --
 16 A Three months.
 17 Q -- job title?
 18 A Three months.
 19 Q Three months. Okay. And then what was your next role
 20 with HRC after being field inspector?
 21 A Would have been a graduate engineer.
 22 Q Would this have still been 1999?
 23 A That could have been 2000.
 24 Q Okay. And then how long did you occupy that role as
 25 graduate engineer?

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1 A I . . . Until I got my professional license, which would
 2 have been five years.
 3 Q Okay. So you got your professional license around 2005?
 4 A Sounds correct.
 5 Q Okay. Let's talk about that professional license for a
 6 bit. Have you ever been disciplined in connection with
 7 your professional license?
 8 A No.
 9 Q Have you ever been under an investigation as far as you
 10 know?
 11 A Not that I know of.
 12 Q Okay. You only know what you know. I get it.
 13 So your license has never been suspended.
 14 A No.
 15 Q Okay. And you've maintained that license continuously
 16 since 2005?
 17 A Correct.
 18 Q Okay. After you got your professional license in
 19 engineering and finance, what did your job title become
 20 at HRC?
 21 A Staff engineer they're called.
 22 Q Okay. So approximately 2005 you become a staff engineer
 23 at HRC. How long did you occupy that role?
 24 A Probably five years.
 25 Q Okay. Around the time you got your MBA.

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1 A Sure.
 2 Q What was the next role you had with HRC after staff --
 3 A Project engineer.
 4 Q Okay. And then are you a project engineer currently
 5 with HRC?
 6 A No.
 7 Q Okay. What was the -- How long were you a project
 8 engineer?
 9 A I think ten years.
 10 Q Well, you got it in 2010.
 11 A Well, okay. Probably five.
 12 Q Okay.
 13 A Then become senior project engineer.
 14 Q Okay. Are you a senior project engineer?
 15 A No.
 16 Q Okay. So you became a senior project engineer around
 17 2015.
 18 A Yep.
 19 Q And then what was the next role you had after that?
 20 A Then I became a department manager.
 21 Q Department manager. When did that happen? When did you
 22 become department manager?
 23 A Two years ago.
 24 Q 2017 sound right?
 25 A Yep.

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1 Q Okay. And is that the position you currently hold, HRC?
 2 A No. Currently I'm an associate.
 3 Q Okay. These are all promotions?
 4 A Correct.
 5 Q So now you're an associate of HRC. When did that occur?
 6 A One year ago.
 7 Q Do you know the month?
 8 A February.
 9 Q Okay. And you're currently an associate of HRC.
 10 A Correct.
 11 Q All right. Is HRC the only company you've worked for as
 12 an engineer since '99?
 13 A Yes.
 14 Q Have you ever been disciplined at HRC?
 15 A No.
 16 Q Okay. Including in connection with this project.
 17 A No.
 18 Q Correct?
 19 A Can you repeat that.
 20 Q So you've never been disciplined at HRC, including in
 21 connection with your work on the property.
 22 A Correct.
 23 Q Okay. Milford is a client of HRC?
 24 A Yes.
 25 Q How long has Milford been a client of HRC?

Page 19

1 A I don't know the exact time, but longer than I've been
 2 working with the company, so prior to my . . .
 3 Q So before 1999.
 4 A Correct.
 5 Q Okay. Do you remember the year? Let me -- I'll be a
 6 little broader.
 7 Did you basically start providing engineering
 8 services in some capacity to Milford upon joining HRC?
 9 A Yes.
 10 Q Okay. So it would be fair to say you've been providing
 11 some sort of engineering services to Milford since 1999?
 12 A Yes.
 13 Q Okay. For the Hacks' property you reviewed a plan that
 14 was prepared by Boss, correct?
 15 A Correct.
 16 Q That type of work that you did in reviewing the Boss
 17 plan for the Hacks' property, have you done that kind of
 18 work for HRC since 1999?
 19 A Yes.
 20 Q Okay. And for Milford since 1999?
 21 A Yes.
 22 Q Okay. Who do you -- You know Tim Brandt?
 23 A Yes.
 24 Q Okay. How long have you -- What's the first time you
 25 worked with Tim Brandt?

Page 20

1 A I . . . I don't know the first time. It -- I feel like
 2 it's been the entire time, but I don't . . . I don't
 3 know if that's true.
 4 Q Been over ten years.
 5 A Yes.
 6 Q Okay. You can't remember a former building
 7 administrator --
 8 A I do not.
 9 Q -- in Milford.
 10 A No.
 11 Q And just so the record's clear, let me finish my
 12 question, because it gets jumbled up when we talk over
 13 each other.
 14 A Gotcha.
 15 Q It's a little different than a conversation.
 16 As far as you know, Tim Brand's been the only
 17 building administrator since you started providing
 18 engineering services at Milford in 1999.
 19 A Correct.
 20 Q Okay. Is there anyone else at Milford that you work
 21 with when you're providing engineering services to
 22 Milford?
 23 A The supervisor.
 24 Q Okay. Such as Don Green.
 25 A Correct.

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1 Q And did you provide -- Did you work with another Milford
2 Township supervisor before Don Green?
3 A I did not, no.
4 Q Okay. Do you know how long Don Green's been supervisor?
5 A I would -- More than ten years.
6 Q Okay. So would it be fair to say that since you joined
7 HRC in 1999 and started providing services to Milford
8 you basically work with the same people over at Milford
9 for providing engineering services?
10 A I feel that's correct.
11 Q Okay. So you mentioned Donald Green. You mentioned Tim
12 Brandt. Anyone else over at Milford?
13 A No, just -- I mean, just the building department,
14 whoever the -- whoever worked the front desk of the
15 building department.
16 Q Support staff?
17 A Yes.
18 Q Okay. Do you know who those people are?
19 Well, let me be more specific. In regards to
20 this Hacks' property and the work you did on it, who
21 were the support staff in the building administrator's
22 office that you worked with?
23 A Ruth Tessman.
24 Q Tessman?
25 A Yeah.

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1 Q Okay. Anyone else?
2 A Not that I can recall.
3 Q Okay. What kind of work did you do with Ruth?
4 A She --
5 Q On this project in particular.
6 A She would have sent me plans. Actually, I think Tim
7 sent the plans directly to me, so maybe . . . Yeah, I
8 don't know . . . Now that I think about it, I don't
9 remember really interacting with her on this specific
10 project.
11 Q Is her work with you typically administrative?
12 A Yes.
13 Q Okay. So anyone other than Green and Brandt and maybe
14 Tessman that you worked with over at Milford in regards
15 to the Hacks' property and your work on it?
16 A No.
17 Q Okay. What would you -- If you had to give a title or
18 brief description to the type of services you provided
19 to Milford in connection with the Hacks' property that
20 we're discussing, how would you describe it or title it?
21 A I would say it's a plan review.
22 Q And since 1999 how many plan reviews have you been
23 involved with globally? Not just Milford, but globally.
24 A I would . . . I don't know. 800?
25 Q Of those 800, I understand it's an approximation --

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1 A Yeah.
2 Q -- it's been a long time. I get it. How many of those
3 800 would have been on behalf of Milford approximately?
4 A Probably 80.
5 Q And then of those 800 -- Well, of the 720 that are
6 remaining, not counting Milford, how many of those are
7 for other municipalities?
8 A All of them would have been for other --
9 Q I'm sorry, continue.
10 A All of them would have been for other municipalities.
11 Q Do you strictly provide engineering services to
12 municipalities?
13 A Yes.
14 Q Which municipalities would be involved in the 720 other
15 plan reviews, you know, Milford is taken out of that
16 chunk, of course?
17 A City of Wixom, Highland Township, City of South Lyon,
18 City of Linden, Hartland Township, City of Howell, Handy
19 Township, West Bloomfield Township.
20 Q H-A-N-D-Y?
21 A Correct.
22 Q Never heard of it.
23 A It's out in Fowlerville.
24 Q Hmm.
25 A Is in Handy Township.

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1 Q Of these 800 plan reviews or so that you've done in the
2 past two decades, how many involve residential property
3 as opposed to industrial/commercial?
4 A To give a number, I would say 20.
5 MR. GLEESON: 20 residential.
6 THE WITNESS: Correct. That's just a guess.
7 Q (Continuing by Mr. Cronkhite): That's typically
8 because -- Well, you have so few residential plan
9 reviews because typically plan reviews are done in
10 connection with industrial commercial property, correct?
11 A Correct.
12 Q Of the 20 or so plan reviews that you did for
13 residential properties, did those all involve single
14 family detached residences or did some of them involve,
15 say, apartment buildings or something more than a single
16 family detached residence?
17 A Single family.
18 Q So all 20 or so would have been all single family
19 detached residences?
20 A Correct.
21 Q Okay. Of those 20 that you mentioned, how many of them
22 were done for Milford?
23 A Four or five.
24 Q Okay. And one of those four or five would have included
25 the Hacks' property?

6 (Pages 21 to 24)

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1 A Correct.

2 Q Okay. Before the Hacks' property, what is the -- in

3 reverse chronological order, what is the most recent

4 plan review for residential property in Milford?

5 A I would -- It probably would be back 2009/2010.

6 Q And what did that plan review entail?

7 A I think it was like a filling grade permit, similar to

8 what we were looking at here.

9 Q Can you be more specific?

10 A I would -- I remember one having a --

11 Q No. I'm sorry, I don't mean to interrupt you, but just

12 to be efficient, so just focus on this 2009/2010 one for

13 now.

14 A Okay.

15 Q Not the other ones. So this second most recent plan

16 review that you did for a residential property you said

17 involved a grade fill permit?

18 A Fill and grade permit.

19 Q What was the nature of the work?

20 A I think they were filling their back yard to a wetland.

21 Q Okay. And when you say "filling," you mean they were

22 bringing fill from off site to put over wetland.

23 A No. They were changing the slope of their existing lawn

24 making it flatter.

25 Q Was there water sitting on the slope?

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1 A I have no idea.

2 Q Okay. Did you actually visit the property?

3 A No.

4 Q When they, the property owners for that -- Do you

5 remember -- Let me back up. Do you remember where that

6 property was located?

7 A No.

8 Q Do you still have the file for that property?

9 A Yes.

10 Q Or project. You do?

11 A Yes.

12 Q You reviewed -- Well, was a plan similar to one in

13 nature that Boss prepared for the Hacks' property

14 prepared for this project, 2009/2010 project?

15 A Yes.

16 Q Did Boss prepare it?

17 A I don't know.

18 Q Did you -- You reviewed that plan and then approved it?

19 MR. TAMM: Objection. Form and foundation.

20 THE WITNESS: I don't remember if it got

21 approved. Sometimes we have comments and they don't --

22 if they don't respond, then we -- I don't know if it was

23 approved.

24 Q (Continuing by Mr. Cronkwhite): Okay. You don't know

25 whether it was approved.

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1 A No.

2 Q You just remember doing it.

3 A Hm-hmm.

4 Q You don't know whether a permit was issued?

5 A I -- No.

6 Q Do you remember what your recommendation was?

7 A No.

8 Q Okay. If we had your file for that 2009/2010 project,

9 presumably your recommendations, if any, would be in

10 there.

11 A Yes.

12 Q The third most recent plan review for a Milford

13 residential project, when would that have been?

14 A 2008.

15 Q Do you have the file for that in your office?

16 A I would.

17 Q And what was the nature of that project?

18 A That would have been a fill and grade permit also.

19 Q Do you know what the details of the filling or grading

20 happening on that property was?

21 A No.

22 Q Do you remember what you ultimately recommended for that

23 project?

24 A No.

25 Q Okay. Similar to the 2009/2010 project, presumably your

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1 work and recommendations would be contained within you

2 were file in your office.

3 A Correct.

4 Q Okay. What was the fourth most recent project?

5 A It was before -- It would have been a fill and grade

6 permit.

7 Q Let me ask you this: Do you have in your office a

8 collection of projects that you've done for Milford?

9 A Yes.

10 Q Okay. So you could go into your office at HRC and

11 identify all the projects that you've done since 1999

12 for Milford.

13 A Not necessarily my office. Sometimes the older jobs the

14 files would get stored off site, so I would have direct

15 access to it, but it . . . I'd have to get it from

16 off-site storage.

17 Q Okay. But HRC has access to the off-site storage,

18 right?

19 A As far as I know, yes.

20 Q Do you know how far back your files in your actual HRC

21 office go?

22 A Five years.

23 Q Oh. Well, so the projects we've been talking about are

24 a decade or more old, so would they be in your office or

25 not? I thought you said they were in your office.

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1 A I -- We have -- When you write the letters, the letters
2 are saved on the computer system, so I can look up old
3 letters that way.
4 Q Okay. Is the -- So it sounds like you take your hard
5 copy files that are older than five years old off site
6 to be stored.
7 A Correct.
8 Q Okay. But you have the electronic files in tact at
9 HRC's offices?
10 A Yes.
11 Q Okay. Is it the entire file?
12 A No.
13 Q Okay. So what do you have electronic access to?
14 A Letters that were written.
15 Q Okay. Those are on HRC's server?
16 A Yes.
17 Q Okay. Do you have like a list, a summary, a list,
18 whatever you want to call it, of all the properties in
19 Milford that you've done plan reviews for since 1999?
20 A Yes.
21 Q Okay. And you have access to that?
22 A The list?
23 Q Yeah.
24 A Yes.
25 Q Okay. You identified the four residential projects in

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1 Milford that would have involved what you call plan
2 reviews. Are all -- They all involved grading and
3 filling?
4 A Yes.
5 Q When you say "grading," you have to -- you understand
6 that you have to grade in Milford all homes to code as
7 part of getting a final certificate of occupancy, right?
8 MR. TAMM: Objection to form and foundation.
9 MR. GLEESON: You can answer.
10 THE WITNESS: I -- Yes.
11 Q (Continuing by Mr. Cronkhite): I mean, I'll be clear.
12 You understand that there is a grade requirement for
13 homes in Milford Township?
14 MR. TAMM: Objection to form. It calls for a
15 legal conclusion. He's not a lawyer.
16 MR. CRONKHITE: You can answer the question.
17 MR. TAMM: If you know.
18 THE WITNESS: I don't issue the permits or the
19 building permit, so I don't -- I would assume so, yes.
20 Q (Continuing by Mr. Cronkhite): So you don't review
21 grading for Milford.
22 MR. TAMM: Objection to form.
23 THE WITNESS: Yes.
24 Q (Continuing by Mr. Cronkhite): You do --
25 A For a fill and grade permit, yes.

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1 Q You don't do a final grade review for Milford in
2 connection with the residential homes?
3 A Not unless they ask me.
4 Q Okay. And you weren't asked to do that for the Hacks'
5 property, were you?
6 A I was asked to review the plans that were submitted.
7 Q Which involved?
8 A Filling and grading of the driveway.
9 Q Of the driveway.
10 A Yes.
11 Q Okay. Nothing else?
12 A There was nothing else provided on the plans.
13 Q Okay. My question is were you asked by Milford to do
14 anything else beyond review filling and grading for the
15 driveway on the Hacks' property?
16 A No.
17 Q Have you ever -- With Milford Township, did any of those
18 other grading and fill permit projects involve a
19 driveway?
20 A Probably. I don't remember exactly, but I imagine they
21 would.
22 Q You would imagine. Can you -- You identified one
23 project that involved sloping being leveled out.
24 A Hm-hmm.
25 Q Yes?

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1 A Yes.
2 Q Can you identify any other project before that you just
3 referenced that actually involved a driveway that you
4 remember as opposed to speculating?
5 A Not that I remember.
6 Q Is there in Milford anything that -- such as a driveway
7 permit that homeowners can apply for that you're aware
8 of?
9 MR. TAMM: Objection. Form and foundation.
10 THE WITNESS: Not that I'm aware of.
11 Q (Continuing by Mr. Cronkhite): You've never been
12 involved in reviewing a driveway permit application for
13 Milford, have you?
14 A Not that I remember.
15 Q Okay. If it involved a driveway -- Well, let me ask you
16 this: What permitting have you been involved with for
17 Milford that involved a driveway?
18 A I mean, every commercial plan review we did would have a
19 driveway.
20 Q Commercial.
21 A Correct.
22 Q Okay. So for residential driveways what would the
23 permitting be called that you would be involved in?
24 A That would be for a fill and grade permit.
25 Q Okay. And you can identify one such grade and fill

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1 permit for a residential driveway sitting here today.
 2 MR. TAMM: Objection to form. It's -- Form
 3 and foundation. It's a mischaracterization of his
 4 testimony.
 5 THE WITNESS: There has to be more than that,
 6 but I don't know the name right off the top of my head.
 7 Q (Continuing by Mr. Cronkhite): Okay. The only project
 8 that you -- sitting here today that you can actually
 9 identify that involved a fill and grade permit for a
 10 residential driveway is the Hacks' property, correct?
 11 A Correct.
 12 Q Okay. You had an opportunity to review your file for
 13 the Hacks' property, right?
 14 A Yes.
 15 Q Do you understand that part of the allegations or -- and
 16 the lawsuit that the Hacks filed against Milford and its
 17 agents are that Milford is requiring a permitting
 18 process that they haven't required of other similarly
 19 situated residents in Milford, correct?
 20 MR. TAMM: Objection to form and foundation.
 21 THE WITNESS: Correct.
 22 Q (Continuing by Mr. Cronkhite): Okay. But did you -- Did
 23 you prepare for your deposition today by looking at
 24 similarly situated residents in Milford who have gone
 25 through this process before?

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1 A I did, but not -- I don't know them specifically.
 2 Q Okay. So you reviewed other files for projects that
 3 would have involved grading and filling permits for
 4 residential driveways, but you can't remember what those
 5 projects are.
 6 A Correct.
 7 Q You're familiar with Boss Engineering?
 8 A Yes.
 9 Q Not including the Hacks' property and project that we're
 10 discussing, you've been involved with other projects
 11 that involve Boss Engineering, right?
 12 A Correct.
 13 Q And that would include having worked alongside in some
 14 capacity Brent LaVanway over at Boss, correct?
 15 A Correct.
 16 Q How many projects have you been involved in as an
 17 engineer that involved Boss Engineering?
 18 A You want a number?
 19 Q Is it innumerable? Over a hundred?
 20 A I wouldn't say it's that high.
 21 Q Over 50?
 22 A 25 to 50.
 23 Q Okay. And what about Brent LaVanway?
 24 A Probably 15 or so.
 25 Q Okay. Do you feel that Boss Engineering is a reputable

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1 engineering outfit?
 2 MR. TAMM: Objection. Form and foundation.
 3 THE WITNESS: Yes.
 4 Q (Continuing by Mr. Cronkhite): Okay. What about Brent
 5 LaVanway? Is he a reputable engineer?
 6 A Yes.
 7 Q When is the first time you got involved in your capacity
 8 as an engineer with the Hacks' property?
 9 A Oh, the summer. I'd say end of June/early July 2018.
 10 Q Okay. And was that -- Was your involvement started by
 11 someone from Milford reaching out to you?
 12 A Correct.
 13 Q Who was that?
 14 A Don Green.
 15 Q Okay. And what did Don Green want you to do?
 16 A He . . . Yeah, he asked if I -- if we were reviewing the
 17 plans for fill and grade, and we didn't have them at
 18 that point so I didn't really know what he was talking
 19 about, so I think we were pretty much waiting for the
 20 plans until August.
 21 Q Before Don Green had reached out to you in the summer of
 22 '18, were you aware of the project that was going on at
 23 the Hacks' property?
 24 A No.
 25 Q Okay. So Don Green was essentially the one who put it

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1 on your radar.
 2 A Correct.
 3 Q Okay. And what did Don Green tell you about the Hacks'
 4 property when he initially reached out to you?
 5 A That there was flooding on the property.
 6 Q On the property. On the Hacks' property.
 7 A Yes. He didn't go into the specific detail, but he
 8 said . . . it just sounded like there was a major
 9 flooding.
 10 Q Did you speak to him on the telephone?
 11 A I think it would have been email.
 12 Q Okay. You don't remember.
 13 A No.
 14 Q No?
 15 A No.
 16 Q Okay. And then what was your understanding of what you
 17 were to do once Don Green contacted you and mentioned
 18 this flooding to you?
 19 A Wait for plans to be submitted.
 20 Q Okay. By the Hacks?
 21 MR. TAMM: Objection. Form and foundation.
 22 THE WITNESS: I -- From someone associated
 23 with that property.
 24 Q (Continuing by Mr. Cronkhite): Okay. The property
 25 owner.

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1 A The -- Sure. Yes.
2 Q Okay. Or their agent.
3 A Yeah.
4 Q Okay. And then had you been shown -- I'll just actually
5 mark this as Exhibit 3.
6 (Exhibit 3 marked for identification)
7 Q (Continuing by Mr. Cronkhite): Had you ever been shown
8 this letter that I marked as Exhibit 3 before this
9 litigation?
10 A No. No.
11 Q Have you ever seen that before today?
12 A No.
13 Q You can set those aside, sir.
14 When a plan review is being conducted by your
15 office, by you specifically, in the course of that plan
16 review you receive a plan from the property owner or
17 their agents, correct?
18 A Yes.
19 Q Thank you. What do you call that plan typically?
20 A A site plan.
21 Q A site plan. Did you receive a site plan from Boss
22 Engineering in connection with the Hacks' property?
23 A Yeah, the -- Yes.
24 Q I want to make sure we're using the right terminology
25 here, because my understanding of a site plan is

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1 something that you have to submit to a municipality in
2 order to break ground or do an expansion or something of
3 that nature, something more involved than, say, a
4 topographical survey. Am I off-base there?
5 MR. TAMM: Objection to the form of the
6 question.
7 THE WITNESS: No, they -- the site plan in my
8 mind would be anything that shows what's going on
9 proposed on the site.
10 Q (Continuing by Mr. Cronkhite): Okay. So a site plan for
11 purposes of a grading and fill project could be focused
12 simply on the proposed grading and filling that's
13 going -- that's proposed to occur.
14 A Correct.
15 Q Okay. And you call that a site plan.
16 A Yes.
17 Q Okay. When a site plan is submitted to you for a plan
18 review that you're going to do, is it accurate to say
19 that your goal is to make sure that whatever is proposed
20 in the site plan is going to maintain the predevelopment
21 conditions of that property?
22 MR. TAMM: Objection to form.
23 THE WITNESS: Yes.
24 Q (Continuing by Mr. Cronkhite): And put it another way --
25 Well, actually I should be a little more specific. So

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1 when you're talking about putting dirt -- bringing dirt
2 off site onto a piece of property, there could be
3 consequences that result from that, correct?
4 A Correct.
5 Q Okay. And your goal in reviewing the site plan that is
6 submitted and that you're to review is to make sure that
7 there aren't going to be any consequences that are
8 created on that project as a result of the proposed work
9 that would have not occurred predevelopment.
10 MR. TAMM: Objection to form and foundation.
11 THE WITNESS: Correct. And to verify that it
12 meets Township design standards.
13 Q (Continuing by Mr. Cronkhite): You're familiar with
14 Milford's -- Milford Township's standards that would
15 apply to the site plan that was submitted by Boss
16 Engineering in connection with the Hacks' property,
17 correct?
18 A Correct.
19 Q What are they?
20 A Engineering design standards?
21 Q Sure. I mean, let me -- I'll -- Let me be more
22 specific. Are they a set of ordinances somewhere? Are
23 they a manual somewhere. What are they?
24 A There's a manual, for lack of a better term, of
25 engineering design standards, yes.

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1 Q And are those specific to Milford?
2 A Yes.
3 Q Who provides those to you?
4 A I think we created them with the Township.
5 Q Were those in existence, those engineering standards for
6 Milford, before you joined HRC?
7 A Yes.
8 Q Okay. Have you been involved in their modification?
9 A Yes.
10 Q Okay. What were the engineering standards of Milford
11 Township that applied to this specific site plan that
12 Boss Engineering submitted, if any?
13 A The side slopes, many of the proposed grading slopes,
14 and how they're handling their drainage.
15 Q How did you know to look at those specific standards in
16 connection with this site plan that Boss submitted?
17 A It's pretty standard to look at those for any site plan.
18 Q For any site plan?
19 A Yes.
20 Q So you mentioned drainage. You mentioned slope.
21 Any -- And I assume that there are portions in this
22 manual that address those issues.
23 A Yes.
24 Q Okay. Any other things in the engineering standards of
25 Milford Township that would apply to the site plan that

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1 Boss submitted?
 2 A Not that I'm aware of.
 3 Q Okay. And you consulted those engineering standards
 4 when you reviewed the site plans submitted by Boss
 5 Engineering to you?
 6 A Yes.
 7 Q Okay. And I want to show you what I'm going to mark as
 8 Exhibit 4-1.
 9 (Exhibit 4-1 marked for identification)
 10 Q (Continuing by Mr. Cronkhite): Do you recognize this
 11 document marked 4-1?
 12 A Yes.
 13 Q What is it?
 14 A It is the site plan for the driveway fill and grade.
 15 Q Okay. And this was the site plan that was prepared by
 16 Boss Engineering for your review in connection with the
 17 Hacks' property, correct?
 18 A Yes.
 19 Q Okay. And page one of this Exhibit 4-1 has the date
 20 7-27-2018, correct?
 21 A Yep.
 22 Q Okay. And then there's a page 2, which has the
 23 hand-marked date of August 14th, 2018, correct?
 24 A Yep.
 25 Q There aren't notable differences between these two site

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1 plans submitted by Boss, are there?
 2 A The septic field's shown on the second one.
 3 Q Okay. Other than the septic system being shown, or I
 4 should say septic field being shown, is there any other
 5 differences that are notable between these two plans?
 6 A No.
 7 Q The topographical features, other than the missing
 8 septic field on the first, the earlier plan,
 9 topographical elevations are all the same, correct?
 10 MR. TAMM: Objection to form.
 11 THE WITNESS: From what I can tell.
 12 Q (Continuing by Mr. Cronkhite): Well, you reviewed these
 13 before, correct?
 14 A From what I can tell, yes, they appear to be the same.
 15 Q Okay. Well, back when you reviewed them before today,
 16 you remember the topographical elevations being the same
 17 on both plans, correct?
 18 A Correct.
 19 Q Okay. And then I'd like to mark this as Exhibit 4-2.
 20 (Exhibit 4-2 marked for identification)
 21 MR. CRONKHITE: 4-2 is the number, and I've
 22 got copies. Kevin, I've got one for you, but I assume
 23 you can look at that for now.
 24 MR. GLEESON: Yeah, sure.
 25 Q (Continuing by Mr. Cronkhite): So what I did is I took

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1 the first page of Exhibit 4-1 and I blew it up.
 2 MR. TAMM: Actually, it's not.
 3 THE WITNESS: This is the second page.
 4 MR. CRONKHITE: The second page. Thank you.
 5 Second page.
 6 Q (Continuing by Mr. Cronkhite): Do you recognize this as
 7 being simply the blown-up version of the final
 8 August 14, 2018, site plan submitted by Boss?
 9 A Yes.
 10 Q Okay. And it's called a topographical survey on the
 11 document itself, right?
 12 A That's what it's labeled as, yes.
 13 Q But you would recognize this as a site plan.
 14 A Yep. Or a grading plan specifically.
 15 Q Okay. A grading plan is a type of site plan.
 16 A Correct.
 17 Q Okay. And this is the -- This is the -- I'm just going
 18 to call it the site plan --
 19 A Sure.
 20 Q -- for simplicity. Understand we're referring to the
 21 grading plan and the topographical survey that the
 22 document's labeled as. You recognize this as the site
 23 plan that Boss Engineering submitted in connection with
 24 having the driveway constructed on the Hacks' property,
 25 right?

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1 A Correct.
 2 Q All right. You understand that Boss submitted this to
 3 address Milford's concerns that there was water on the
 4 property that needed to be addressed in order to build
 5 the driveway.
 6 MR. TAMM: Objection to form and foundation.
 7 THE WITNESS: Correct.
 8 Q (Continuing by Mr. Cronkhite): Okay. The site plan in
 9 front of you has various elevation levels, correct?
 10 A Yes.
 11 Q Okay. And you recognize that some of those elevation
 12 levels pertain to the predevelopment elevations on the
 13 Hacks' property, correct?
 14 MR. TAMM: Objection to form and foundation.
 15 THE WITNESS: Some of them may, yes.
 16 Q (Continuing by Mr. Cronkhite): Some of them may, okay,
 17 and then some of them involve what Boss was proposing to
 18 change as part of the site plan, correct?
 19 A Yes. And when you say "preconstruction conditions,"
 20 that, talking to Brent LaVanway, this was already -- the
 21 house and stuff was already existing when we took this
 22 topo, so this -- I would say it doesn't reflect
 23 preexisting conditions prior to the house.
 24 Q You don't know that.
 25 MR. TAMM: Objection to form.

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1 THE WITNESS: Looking at this, I do not know
2 that.
3 Q (Continuing by Mr. Cronkhite): Okay. So when we look
4 at -- Let's just look at the dashed lines on the site
5 plan.
6 MR. TAMM: What are you referring to,
7 Mr. Cronkhite, as dashed lines?
8 MR. GLEESON: They're dashed.
9 MR. CRONKHITE: They're dashed.
10 MR. TAMM: But there's multiple --
11 THE WITNESS: Not all of them.
12 Q (Continuing by Mr. Cronkhite): I'm only referring to the
13 dash --
14 A So what -- Okay.
15 Q So the dashed lines that have numbers atop them, you
16 recognize those as what would be considered as typically
17 predevelopment elevation levels, correct?
18 A Correct.
19 Q Okay. And then we have solid bolded lines that have
20 numbers atop them, right? Yes?
21 A Yes.
22 Q And you would recognize those as what Boss was proposing
23 to change --
24 A Yes.
25 Q -- proposed site plan, correct? Yes?

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1 A Yes.
2 Q The predevelopment elevation levels, you've confirmed,
3 have you not, that those, in fact, were the
4 predevelopment elevation levels of this property?
5 MR. TAMM: Objection to form and foundation.
6 THE WITNESS: Not in the area of the house.
7 Q (Continuing by Mr. Cronkhite): So I want to be -- So
8 what I'm asking is the elevations that are identified as
9 what you would recognize as predevelopment elevations
10 typically, you have confirmed that those listed on the
11 site plan are, indeed, accurate.
12 MR. TAMM: Objection to form and foundation.
13 THE WITNESS: I did not confirm that. I have
14 to take Boss' words that those are the existing
15 conditions.
16 Q (Continuing by Mr. Cronkhite): Okay. So that's what you
17 did. So you looked at the site plan from Boss and you
18 looked at these dashed lines with the elevation levels
19 and you assumed that these elevation levels were the
20 accurate predevelopment elevation levels for this
21 property, correct?
22 MR. TAMM: Objection to form. And just
23 because he's made it an issue, there's only a part of
24 this that shows the contour lines. The northern part
25 doesn't show any.

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1 MR. CRONKHITE: I'm speaking about the
2 document. It speaks for itself. You can ask questions
3 and clarify anything that I left out.
4 THE WITNESS: Well, what I'm getting hung up
5 on is the pre -- what are you saying? Pre --
6 Q (Continuing by Mr. Cronkhite): Development.
7 A Predevelopment, which I don't agree with. The word
8 predevelopment to me means the vacant parcel.
9 Q Correct. That's what I'm talking about.
10 A So I will say that I do not know that those are the
11 predevelopment contours.
12 Q Understood. I understand that's what your testimony is.
13 What I'm asking is that when you reviewed the site plan
14 that we're talking about, you reviewed it with your
15 understanding, mistaken as it may have been at the time,
16 that the elevation levels on the site plan included the
17 predevelopment elevations.
18 MR. TAMM: Objection to form.
19 THE WITNESS: Correct.
20 Q (Continuing by Mr. Cronkhite): Okay. And we're talking
21 specifically about the dashed lines and numbers atop
22 them on the site plan.
23 A Correct.
24 Q Okay.
25 MR. GLEESON: When you say "predevelopment,"

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1 you mean before anything was done on the property.
2 MR. CRONKHITE: Correct.
3 MR. GLEESON: As opposed to predevelopment
4 with respect to the driveway.
5 MR. CRONKHITE: Correct.
6 MR. GLEESON: Okay.
7 MR. CRONKHITE: Yeah, I'm talking vacant
8 parcel?
9 Q (Continuing by Mr. Cronkhite): You understand -- Well,
10 and maybe you don't understand. You understand that the
11 Hacks purchased this home and it was -- the lot was
12 unimproved and completely vacant, right?
13 A Correct.
14 Q Okay.
15 A Yes.
16 Q All right. So when I'm talking about predevelopment,
17 I'm talking before they touched a pebble.
18 A Before they owned it.
19 Q Before they even owned it. Perfect. Yeah. The day
20 before they owned it or broke ground, whatever.
21 A Correct. Yes.
22 Q All right. So we're talking about the same thing. All
23 right. When you -- You approved this site plan,
24 correct?
25 A Correct.

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1 Q Marked as Exhibit 4-2.
 2 A Correct.
 3 Q Okay. And how did you -- Walk me through your review of
 4 the site plan and how you concluded it was satisfactory
 5 and should be approved.
 6 A Well, Boss' statement here about the driveway fill
 7 showed that they were providing more volume than what
 8 they were filling in with the driveway. That's pretty
 9 much the -- That's pretty much what the main focus of
 10 the review was.
 11 Q When you say "the main focus," was there any other
 12 focus?
 13 A The side slopes of the proposed grades.
 14 Q Okay. And the side slopes were satisfactory as well?
 15 A Correct.
 16 Q Okay. They weren't in compliance with Milford
 17 Township's engineering standards.
 18 A Correct.
 19 Q Okay. And I want to make sure I understand your logic.
 20 So is the idea that what was being proposed in terms of
 21 a driveway and the dirt that would be placed in
 22 connection with that driveway, any water that was
 23 displaced from that placement of dirt would have
 24 somewhere else to go on the project?
 25 A Yes. It would go on the proposed low area.

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1 Q Okay. And you're talking about the area on Exhibit 4-2
 2 that's immediately west to the proposed driveway.
 3 A Correct.
 4 Q Okay. And so any volume of water that would be
 5 displaced by the material that would be placed in
 6 connection with the driveway would be accommodated for
 7 by the proposed excavated area on Exhibit 4-2.
 8 A Correct.
 9 Q Okay. In fact, didn't you conclude that Boss was
 10 actually proposing more volume than was necessary for
 11 the displacement?
 12 A That's what they are claiming, yes.
 13 Q Okay. And that's what you concluded based on what they
 14 provided.
 15 A Yes.
 16 Q Okay. Was there anything else you considered besides
 17 what you already testified to in reviewing and approving
 18 Boss' site plan marked as Exhibit 4-2?
 19 A I don't understand what you mean.
 20 Q So you walked me through what you did to analyze/review
 21 the site plan and approve it. Was there anything you
 22 left out?
 23 A I looked at the drainage area for the site just to see
 24 how big of a problem it was.
 25 Q When you say the "drainage area for the site," do you

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1 mean this parcel or do you mean that surrounding area?
 2 A The surrounding area to this parcel.
 3 Q Okay. Is that in a document somewhere?
 4 A We -- I think we had a sheet that showed it.
 5 Q Was it prepared by your office or someone else?
 6 A Yes, it was prepared -- Yes.
 7 Q Did you produce that to your attorney?
 8 A Yes.
 9 MR. TAMM: It's about the fifth page to the
 10 back.
 11 MR. CRONKHITE: Oh, thank you. Thank you very
 12 much.
 13 MR. TAMM: It's before -- Right before the
 14 photo if you want to find it.
 15 Q (Continuing by Mr. Cronkhite): So, sir, I'm handing you
 16 what is part of the -- Oh, you've got it in front of
 17 you. You're faster than I am. So this is part of what
 18 is marked as Exhibit 2, and this shows -- it's about
 19 seven or eight pages from the back of Exhibit 2, and it
 20 shows what exactly, sir?
 21 A The contour lines surrounding the property.
 22 Q Okay. You said that this -- you could -- by reviewing
 23 this you could see the drainage area?
 24 A Well, I could see the drainage pattern.
 25 Q Okay. And what did you conclude was the drainage

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1 pattern based on your review of this document that's
 2 part of Exhibit 2?
 3 A There was a lot of off site drainage coming to this low
 4 area in the front of this property.
 5 Q You're talking about this low area on the Hacks'
 6 property near the front of the parcel.
 7 A Yes.
 8 Q Near the southern portion of the parcel.
 9 A Yes.
 10 Q Okay. And you simply concluded that based on the higher
 11 elevations surrounding the Hacks' property, right?
 12 A Yes.
 13 Q Okay. And did you also note as part of this document
 14 that the parcel immediately to the east of the Hacks'
 15 property also has similarly low-lying land?
 16 MR. TAMM: Objection to form.
 17 THE WITNESS: I would say it's flat. Wouldn't
 18 necessarily call it low.
 19 Q (Continuing by Mr. Cronkhite): Okay. So, for instance,
 20 when you say you found that there was low-lying land on
 21 the Hacks' property, you're talking about the portion
 22 that is at elevation 958, correct?
 23 A 950 -- Yes, 956, 958. Yes.
 24 Q Okay. And both of those would be low-lying compared to
 25 the surrounding land, correct?

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1 A Yes.

2 Q Okay. And then the property immediately to the east of

3 the Hacks' property similarly has elevations of 958 in

4 their yard, correct?

5 A Yes.

6 Q What is your understanding of the time period reflected

7 by this map that's part of Exhibit 2?

8 Let me be more specific. Is it predevelopment?

9 A I assume it is.

10 Q Why do you assume that?

11 A Because there's no -- Because it doesn't look like

12 there's a house there.

13 Q Yeah, there's no address on it, right?

14 A Correct.

15 Q Right. Some other parcels to the west and the east of

16 the Hacks' parcel, what is now the Hacks' parcel, have

17 addresses, correct?

18 A Yes.

19 Q And there's no address listed on what is now the Hacks'

20 property, correct?

21 A Correct.

22 Q So you concluded that this map was of the predevelopment

23 contours for the area surrounding the Hacks' property

24 and for the Hacks' property.

25 A Yes.

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1 Q Okay. And why was reviewing this particular document

2 part of your site plan review of Boss' proposed site

3 plan?

4 A I actually looked at this prior to even receiving the

5 Boss plans just to see the magnitude of the flooding,

6 and I was also looking to see if there was an outlet for

7 this drainage.

8 Q Why was there -- Why was the existence or non-existence

9 of an outlet important for your review?

10 A I don't know if it was really important. It was more

11 just curiosity.

12 Q Well, can you explain why you were curious? I'm sure

13 you have a reason.

14 A I don't know. My profession looks at drainage and you

15 kind of -- when we first saw the property, you know, the

16 driveway went right through the low spot, and I was just

17 seeing if there was a spot across the street or if the

18 water was trying to get somewhere else.

19 Q Okay.

20 A I was wondering if it was just as simple as the culvert

21 was blocked was the first thought that popped in my

22 mind.

23 Q You concluded, based upon your review of this map in

24 Exhibit 2, that -- Let me back up.

25 What can we call this map marked as Exhibit 2,

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1 part of Exhibit 2? What would you call this?

2 A Maybe just an area map.

3 Q An area map. Okay.

4 A Yeah.

5 Q So you concluded based on your review of the area map

6 and Boss' site plan that the driveway should be

7 constructed, correct? Or could be constructed.

8 A Correct.

9 Q Without altering the predevelopment conditions of the

10 Hacks' property, correct?

11 MR. TAMM: Objection to form.

12 THE WITNESS: As --

13 Q (Continuing by Mr. Cronkhite): Yeah, let me -- You're

14 right. No, Jim's right. Let me rephrase that, because

15 obviously there's going to be some changes to the

16 property.

17 You understood that any water conditions that

18 would have existed on the Hacks' property predevelopment

19 would not have been exacerbated by the proposed Boss

20 site plan, correct?

21 A Correct.

22 Q Okay. And you concluded that the fact that there wasn't

23 an outlet from the Hacks' property meant that the

24 neighboring properties would not be flooded by the

25 proposed site plan, correct?

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1 MR. TAMM: Objection to form and foundation.

2 THE WITNESS: Can you repeat that?

3 Q (Continuing by Mr. Cronkhite): Was part of your reason

4 to look at whether there was an outlet on the Hacks'

5 property for water to determine whether neighboring

6 properties would be affected by water on the Hacks'

7 property?

8 A No. It was -- It was more just to see if the water was

9 trying get somewhere else and it couldn't.

10 Q If there had been an outlet -- Well, you concluded there

11 was no outlet, correct?

12 A Correct.

13 Q Okay. Had there been an outlet that you identified on

14 the Hacks' property as part of your review, would that

15 have changed your conclusions?

16 A On the driveway?

17 Q Yes.

18 A No.

19 Q The area map that you reviewed as part of this site plan

20 review, where did you get it from?

21 A It would have been from Oakland County, I guess, GIS.

22 Q When did you get it?

23 A We get it regularly updated probably yearly from the

24 county.

25 Q You pulled --

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1 A As a company.
 2 Q You pulled this specific area map specifically for the
 3 Hacks' property.
 4 A Correct.
 5 Q Okay. And your review of the Boss site plan.
 6 A Correct.
 7 Q Okay. Did you compare the elevations in the area map to
 8 the elevations that were represented in Boss' site plan?
 9 A No. I looked more at the shape of the contours, and the
 10 shapes appeared to match.
 11 Q What do you mean by the shapes?
 12 A The shapes of the contour lines.
 13 Q Okay. So you're talking about what would be the dashed
 14 lines on Exhibit 4-2?
 15 A Correct.
 16 Q Okay. And you say you went to see whether they matched
 17 in terms of how they flowed, for lack of a better word?
 18 A Correct.
 19 Q Okay. Surely the elevations that were depicted would be
 20 important to your review of the site plan, right?
 21 A It could in a way yes, in a way no, because you don't
 22 necessarily know that they're on the same data, so that
 23 physical number of the elevation doesn't mean much from
 24 this page to this page.
 25 Q What I'm saying is the -- knowing whether the elevations

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1 on Boss' site plan matched the predevelopment elevation
 2 identified in the area map would be important for you
 3 determining whether Boss' site plan would change the
 4 predevelopment conditions of the water on the Hacks'
 5 property, wouldn't it?
 6 A Well, the Boss plans are one-foot contours and these are
 7 two-foot contours, so it's -- this kind of just gives
 8 you a -- gets you in the ballpark what's going on. I
 9 mean, you can't . . . can't make a definite engineering
 10 decision based on that.
 11 Q And I'm not asking that question yet. What I'm asking
 12 you is if you had something that showed the
 13 predevelopment contours and elevations of those
 14 contours, that would be important for assessing the
 15 accuracy of the contours and the elevations of those
 16 contours depicted in Boss' proposed site plan, right?
 17 A Yes.
 18 Q Okay. And you had the area map that you understood to
 19 be the predevelopment elevation levels of the Hacks'
 20 property, correct?
 21 MR. TAMM: Objection. Asked and answered.
 22 Mischaracterization.
 23 MR. GLEESON: Off the area map.
 24 MR. CRONKHITE: I'm sorry?
 25 MR. GLEESON: On the area map you're referring

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1 to?
 2 MR. CRONKHITE: The area map.
 3 THE WITNESS: How would I say --
 4 MR. GLEESON: You explain it however you want
 5 to.
 6 THE WITNESS: It gives me an idea of what's
 7 going on. It didn't give me a definitive answer.
 8 Q (Continuing by Mr. Cronkhite): You were comfortable
 9 relying on the area plan that you had in your possession
 10 to determine what the predevelopment elevations and
 11 contours were for this property, weren't you?
 12 MR. TAMM: Objection to form.
 13 THE WITNESS: I was -- I used it more to
 14 figure out what the water was doing, not necessarily the
 15 predevelopment condition.
 16 Q (Continuing by Mr. Cronkhite): Okay. But the area map
 17 showed the predevelopment contours and elevations,
 18 correct?
 19 MR. TAMM: Objection to form. It's been asked
 20 and answered. It's a mischaracterization.
 21 Q (Continuing by Mr. Cronkhite): You can answer the
 22 question.
 23 A It shows --
 24 MR. GLEESON: You can answer it as you -- Go
 25 ahead.

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1 THE WITNESS: The area map gives you an idea
 2 of what's going. It doesn't necessarily tell you the
 3 exact preconstruction conditions.
 4 Q (Continuing by Mr. Cronkhite): But it shows the
 5 predevelopment elevations and contour lines, does it
 6 not?
 7 MR. TAMM: Objection.
 8 THE WITNESS: Not accurately enough.
 9 Q (Continuing by Mr. Cronkhite): Not accurately enough.
 10 Okay. So, sir, you are -- you pride yourself on being a
 11 competent, capable engineer, correct?
 12 A Correct.
 13 Q Okay. You would not have reviewed Boss' proposed site
 14 plan haphazardly, would you have?
 15 A No.
 16 Q Okay. So if it were important to know what the
 17 predevelopment elevation levels were on this parcel, you
 18 would have done that, correct?
 19 MR. TAMM: Objection to form.
 20 THE WITNESS: Yes.
 21 Q (Continuing by Mr. Cronkhite): And you did do that.
 22 A In my letter I said that, assuming that it was -- that
 23 this was accurate in reflecting the preconstruction
 24 conditions.
 25 Q So you relied on the elevation levels depicted in Boss'

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1 site plan as the predevelopment elevation, correct?
 2 A Yes.
 3 Q Okay. And can you show me on the area map that you
 4 reviewed as part of your site plan review how they
 5 differ from the -- Boss' contour levels?
 6 MR. GLEESON: Do you want to explain to him
 7 the contour lines again?
 8 MR. CRONKHITE: I'll ask a more specific
 9 question.
 10 Q (Continuing by Mr. Cronkhite): Is there anything in the
 11 area map that shows that the elevation levels in Boss'
 12 site plan is inaccurate?
 13 A No.
 14 Q Okay. So you drafted a letter that recommended approval
 15 of Boss' site plan, correct?
 16 A For the driveway, yes.
 17 Q For the driveway, right. I show you what I'm going to
 18 mark as Exhibit 5.
 19 (Exhibit 5 marked for identification)
 20 Q (Continuing by Mr. Cronkhite): And I would keep that map
 21 in front of you, kind of a placemat.
 22 Do you recognize this email marked as
 23 Exhibit 5, sir?
 24 A Yes.
 25 Q Okay. This is where you are emailing Tim Brandt, the

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1 building administrator of Milford, your August 24th,
 2 2018, conclusions regarding your review of Boss' site
 3 plan, correct?
 4 A Correct.
 5 Q All right. And in that August 24th -- Well, first off,
 6 you copied Roland Alix on this email, correct?
 7 A Yes.
 8 Q So he had, Alix Roland had, a copy of your conclusion,
 9 correct?
 10 A Correct.
 11 Q Okay. And then in your August 24, 2018, letter you
 12 concluded that the -- any flooding that occurs
 13 post-development, meaning post-driveway, right?
 14 A Hm-hmm.
 15 Q Yes?
 16 A Yes.
 17 Q Will be similar to flooding that occurred before
 18 development, correct?
 19 A Before driveway, yes.
 20 Q Okay. You assumed in this letter that the elevations
 21 that were depicted in Boss' site plan were the
 22 predevelopment elevation levels, correct?
 23 A Prehome, yes.
 24 Q Prehome. That's what we -- Predevelopment we were
 25 talking prehome.

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1 A Prehome, correct.
 2 Q We're not talking, of course, about the bolded lines on
 3 Exhibit 4-2, which you understood would be actual
 4 changes to predevelopment levels?
 5 A Correct.
 6 Q It would actually be extending the retention area and
 7 providing more behind to store water, correct?
 8 A Correct.
 9 Q Okay. Which would accomplish the goal of collecting the
 10 displaced water by the dirt brought to put underneath on
 11 the sides of the driveways, correct?
 12 A Correct.
 13 Q All right. Was your basic conclusion that if we
 14 implemented -- if the Hacks implemented the site plan
 15 proposed by Boss that the water conditions on their
 16 property would be similar, if not better than, what the
 17 water conditions were on predevelopment?
 18 A No. I can't answer that without the additional
 19 information on the northern part of the house.
 20 Q As it relates to the proposed area where dirt would be
 21 brought as depicted on the site plan, your conclusion
 22 was that the Hacks implementing the Boss plan would not
 23 change the predevelopment water conditions negatively,
 24 correct?
 25 A For the driveway as presented.

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1 Q For the -- Yeah, for the area of the driveway, correct?
 2 A As presented, yes.
 3 Q Okay. And I want to clarify, because I -- So you
 4 concluded that implementing Boss' plan would either
 5 maintain or improve the water conditions on the area
 6 where the driveway was going and the surrounding area
 7 from what those water conditions had been
 8 predevelopment.
 9 MR. TAMM: Objection to form and foundation.
 10 THE WITNESS: Say that again.
 11 MR. CRONKHITE: Can you repeat the question?
 12 It was very specific.
 13 (Whereupon the following portion of the
 14 transcript was read as follows:
 15 "Q. And I want to clarify, because I -- So you
 16 concluded that implementing Boss' plan would either
 17 maintain or improve the water conditions on the area
 18 where the driveway was going and the surrounding area
 19 from what those water conditions had been
 20 predevelopment.")
 21 MR. TAMM: My objection is you're now calling
 22 it the surrounding area.
 23 THE WITNESS: Instead of predevelopment, can
 24 we say prehome?
 25 Q (Continuing by Mr. Cronkhite): Sir, we can, but they're

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1 referring to the same thing.
2 A Well --
3 Q We have -- For the record when I say "predevelopment," I
4 mean prehome.
5 A Prehome. We have two different things going on here.
6 Assuming that this is prehome --
7 Q You mean when you say "assuming this," you mean the
8 elevation levels?
9 A Assuming the existing contour lines as shown prehome,
10 then I would say that the driveway, proposed driveway,
11 did not impact the existing drainage.
12 Q Okay. Meaning that if the elevation levels depicted on
13 Boss' site plan matched roughly the predevelopment/
14 prehome elevation levels, then Boss site plans, proposed
15 site plan, would not increase the flooding on the
16 property.
17 A Correct.
18 Q All right. Boss accounted for any water displacement in
19 the site plan pursuant to what they were recommending in
20 the site plan, correct?
21 A Correct.
22 Q Okay. Sir, you didn't need to know for purposes of
23 reviewing Boss' site plan what the elevation levels were
24 behind the house, right? For purposes of just the
25 driveway.

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1 A For the driveway, no.
2 Q Okay.
3 A But if there's additional flooding, then yes, you would
4 need information.
5 Q Okay. Now, this is important. This is an important
6 distinction. So you testified that Don Green contacted
7 you and asked you to take a look at flooding on the
8 property relating to the driveway, correct?
9 A Yes.
10 Q Okay. That was your understanding of what you were
11 being brought in to do by Milford, to look at a proposed
12 driveway that was to be built and to determine whether
13 the plans that needed to be implemented would address
14 the alleged flooding as shown on the property, right?
15 A Correct.
16 Q Okay. And so your conclusion in your August 24th
17 letter, based upon your review of the documents you just
18 testified to, was that so long as the elevation levels
19 depicted on the Boss site plan matched the
20 predevelopment elevation levels, Boss' plan worked?
21 A Correct.
22 Q Okay. And that's why you didn't request topography in
23 the back of the property, because it had no bearing for
24 purposes of your review of the driveway plan, correct?
25 MR. TAMM: Objection to form and foundation.

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1 THE WITNESS: I think -- I remember reading
2 emails saying that this was not touched, so --
3 Q (Continuing by Mr. Cronkhite): Wait. Wait. You say
4 "This." You're pointing to the northern --
5 A The northern portion of the house without any of the
6 topographic information provided did not change, so
7 all -- so all I could do was make my recommendation
8 based on the information presented.
9 Q Okay. Your testimony is not that something in -- Assume
10 some sort of elevation had been changed in the back of
11 the property. Your testimony isn't that that would have
12 affected your conclusions as they relate to where the
13 driveway was actually proposed and built, are you?
14 A I . . . No, not after seeing the site, no.
15 Q When did you first see the site?
16 A I drove by it, like from the car, end of June/beginning
17 of July.
18 Q Before you wrote your August 24th --
19 A Yes.
20 Q -- approval, correct?
21 A Yes.
22 Q Okay. And so you saw the site then, and is that when
23 you referred to, like not after seeing the site is when
24 you drove by it in June?
25 A No, that was -- that statement was more for the site

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1 visit that we had.
2 Q In November 2018?
3 A Yes.
4 Q Okay. We'll get to that.
5 MR. TAMM: Do you have an idea how long we're
6 going to be?
7 MR. CRONKHITE: Probably till six.
8 MR. TAMM: I think he said he had something at
9 five.
10 MR. CRONKHITE: You have something at five,
11 really?
12 MR. GLEESON: I have a meeting at 5:30 that I
13 could probably push to six.
14 MR. CRONKHITE: If you could, I would
15 appreciate it. This is the heavy lifting portion of it,
16 so I'm trying to get through as quickly as possible.
17 MR. TAMM: We're not going to finish today.
18 There's no way we're going to finish today if he's going
19 to go till six.
20 MR. GLEESON: Well, let's see how we go.
21 MR. CRONKHITE: Okay. I'm moving as quickly
22 as I can, guys.
23 Q (Continuing by Mr. Cronkhite): At the time of your
24 August 24th, 2018, letter you were aware that the
25 neighbor, David Mamo, had claimed that there was

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1 flooding occurring on his property, correct?
 2 A Yes.
 3 Q Okay. And notwithstanding his claims, you concluded
 4 that the site plan proposed by Boss was acceptable,
 5 correct?
 6 MR. TAMM: Objection to form and foundation.
 7 THE WITNESS: Correct.
 8 Q (Continuing by Mr. Cronkhite): Okay. Meaning that the
 9 proposed driveway as reflected in the site plan was not
 10 going to cause flooding to Mr. Mamo's property, correct?
 11 A Correct.
 12 Q That's an additional reason why you issue your
 13 August 24th, 2018, letter was that there was no flooding
 14 problem as concluded by you after review of the site
 15 plan.
 16 MR. TAMM: Objection. Flooding. What are you
 17 talking about now?
 18 MR. CRONKHITE: I'm talking about any flooding
 19 problem whatsoever.
 20 MR. TAMM: Okay. Object.
 21 MR. CRONKHITE: There was no flooding
 22 problem --
 23 MR. TAMM: Objection to foundation.
 24 (Telephone interruption.)
 25 THE WITNESS: What was the question?

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1 Q (Continuing by Mr. Cronkhite): It's okay. I'm going to
 2 rephrase it.
 3 A Yeah.
 4 Q You testified a moment ago that you concluded that the
 5 driveway plan as reflected in Boss' site plan was not
 6 going to cause flooding on the Mamo property, correct?
 7 A Correct.
 8 Q Okay. And at the time you issued your August 24, 2018,
 9 letter you had no evidence that the Hacks had actually
 10 caused flooding to the Mamos' property by virtue of the
 11 construction on the property, did you?
 12 MR. TAMM: Objection to form and foundation.
 13 THE WITNESS: Correct.
 14 MR. CRONKHITE: I'll mark this as Exhibit 6.
 15 (Exhibit 6 marked for identification)
 16 Q (Continuing by Mr. Cronkhite): Do you recognize this
 17 email that I'm handing you marked as Exhibit 6, sir?
 18 A Yes.
 19 Q Okay. And this is an email from you to the supervisor
 20 of Milford Township, Don Green, correct?
 21 A Correct.
 22 Q And this is you saying you don't have any objections to
 23 the proposed grading. You're referring there to the
 24 Boss site plan that we've been discussing, right?
 25 A Correct.

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1 Q All right. And as you testified to, consistent with
 2 what you testified to today, you write to Don Green that
 3 it looks like Boss Engineering is providing more volume
 4 than what there was before construction of the house and
 5 driveway based on the information provided, correct?
 6 A Correct.
 7 Q And the information provided that you're referencing is
 8 the calculations in Boss' site plan and the elevation
 9 levels in the site plan, right?
 10 A Correct.
 11 Q Okay. You also note that the site plan -- this site is
 12 a low spot. You just simply mean there that relative to
 13 the surrounding land, this is low-lying area.
 14 A Correct.
 15 Q Did Don Green have any questions for you after you sent
 16 him this email?
 17 A No, but I remember him . . . I remember him saying that
 18 there was another plan coming, which was the addition of
 19 the septic field.
 20 Q Okay. That's --
 21 A That's why there's the two plans.
 22 Q So at the time you wrote this email we've been talking
 23 about you had Exhibit 4-1.
 24 A Page 1, yes.
 25 Q Page 1. And then Exhibit 4-2 came about a week after

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1 that.
 2 A Correct. And that is what the August 24th letter . . .
 3 Q Approved.
 4 A Approved, yes.
 5 Q But as you testify today, they both have the same
 6 elevation levels.
 7 A Yes. Yes. As far as -- Yeah. As far as what I was
 8 looking at, yes.
 9 Q And the same calculations, correct?
 10 A That -- Yeah. I don't think those changed.
 11 Q To the best of your memory.
 12 A Yes.
 13 Q Okay. Does Don Green identify certain concerns that
 14 David Mamo had regarding Boss' site plan?
 15 A No, not till after.
 16 Q After what?
 17 A After that email.
 18 Q After the August 7th email?
 19 A Yes.
 20 Q Let me hand you what I'm marking as Exhibit 7. I don't
 21 want to make you guess.
 22 (Exhibit 7 marked for identification)
 23 Q (Continuing by Mr. Cronkhite): Here you go. Do you
 24 recognize these emails identified as Exhibit 7?
 25 A Yes.

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1 Q Okay. And this email from David Mamo to Don Green on
2 August 7th, do you understand that he is -- David Mamo
3 is commenting on Boss Engineering's site plan?
4 A That's my assumption, yes.
5 Q Okay. And one of the things he claims, David Mamo that
6 is, is that the house elevation was raised 6 feet and
7 that forced water onto David Mamo's property, correct?
8 A Correct.
9 Q Okay. You reviewed and assessed that claim, did you
10 not?
11 A No.
12 Q So you ignored David Mamo's concern that the house had
13 been elevated 6 feet and was causing flooding?
14 MR. GLEESON: I'm going --
15 MR. TAMM: Object to form and foundation.
16 This isn't directed to him.
17 Q (Continuing by Mr. Cronkhite): It was forwarded to you,
18 correct?
19 A I was talking more sequentially with the email in
20 Exhibit 6, at that time, no. When I responded to Don
21 saying I didn't have any objections to it, I would not
22 have known that the house was filled 6 feet.
23 Q Right. Until it was brought to your attention.
24 A That came after the fact, yes.
25 Q After August 6.

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1 A Right.
2 Q Okay. But before you issued your August 24th approval.
3 A Correct.
4 Q Okay.
5 A Yes.
6 Q And so this email from David Mamo mentioning, among
7 other things, that the house's elevation was raised
8 6 feet and that was forcing water onto David Mamo's
9 property, you had an opportunity to assess that claim
10 before you issued your approval on August 24th, correct?
11 MR. GLEESON: I'll place an objection on the
12 record, because it assumes that that was an assignment
13 that was given to him as an engineer, and it wasn't.
14 MR. TAMM: Joined.
15 Q (Continuing by Mr. Cronkhite): Okay.
16 A That goes back to assuming that these contours showing
17 on the plan are existing.
18 Q Okay. Including the elevation on Exhibit 4-2 that is
19 marked GFE equals 962.67, right?
20 A Correct.
21 Q Okay. And what is your understanding of GFE stands for?
22 A I would assume that's ground floor elevation.
23 Q Right. And Boss' site plan depicted a ground floor
24 elevation of 962.67, correct?
25 A Correct.

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1 Q And you were assuming that that was the precondition
2 eleva -- or the predevelopment elevation of the area
3 where the house was sitting, correct?
4 A Correct.
5 Q All right. And unless there was a substantial change in
6 the elevation level, that wouldn't have affected your
7 conclusions in your August 24th letter, right?
8 MR. TAMM: Objection to form and foundation.
9 MR. GEIK: Go ahead. You can answer.
10 Q (Continuing by Mr. Cronkhite): Meaning that if there was
11 a foot difference or 6 inches of difference, that was
12 not going to affect your conclusions.
13 A Right.
14 Q Okay. But if it was 6 feet, that might affect your
15 conclusions.
16 A Correct.
17 Q Okay. So when you saw David Mamo's email from
18 August 7th before you approved Boss' site plan of
19 August 24th, you kind of dismissed the claim that the
20 house had been elevated 6 feet based on Boss' site plan,
21 correct?
22 MR. TAMM: Objection to form and foundation.
23 Q (Continuing by Mr. Cronkhite): You can answer.
24 A That does sound -- It did seem kind of high.
25 Q Okay. You --

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1 A I would agree that that seems kind of high.
2 Q David's Mamo's claim seems kind of high that it was
3 raised 6 feet, correct?
4 A Yes.
5 Q Okay. And so you were comfortable relying on the GFE of
6 962.67 reflected in Boss' site plan in terms of what was
7 the actual accurate predevelopment elevation as modified
8 by the site plan?
9 MR. TAMM: Objection to form.
10 THE WITNESS: Yes.
11 Q (Continuing by Mr. Cronkhite): Okay. Did you -- In
12 assessing Mr. Mamo's claim that -- I'm talking before
13 your August 24th letter. In assessing Mr. Mamo's claim
14 that the house elevation had been raised 6 feet, did you
15 look at any GIS records?
16 A I would have looked at that area map we talked about.
17 Q Okay. And the area map, what did that area map show was
18 the elevation level of the land on which the house sat
19 predevelopment?
20 A It's hard to tell because I -- I don't know where the
21 house is in relation to that map, so I'd have to . . . I
22 would say it was around 960 would be my . . . would be a
23 good guess.
24 Q 960. Certainly not in the 958 area.
25 A Correct.

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1 Q All right. You were comfortable concluding after
 2 reviewing the area map and Boss' site plan that
 3 Mr. Mamo's claim that the house elevation would have
 4 been raised 6 feet was inaccurate.
 5 MR. TAMM: Objection to form and foundation.
 6 THE WITNESS: I only -- The only thing I could
 7 have -- I would think would be from the front corner
 8 they had to fill in there, but that . . . that would not
 9 have changed my approval.
 10 Q (Continuing by Mr. Cronkhite): What would not have
 11 changed your approval? That filling --
 12 A If they had to fill that front corner.
 13 Q Okay. So my question -- I under -- Thank you. My
 14 question is that you, after reviewing the area map that
 15 you just referenced and reviewing Boss' site plan which
 16 depicted an elevation level of 962.67 -- that's the GFE
 17 elevation level -- you were comfortable concluding that
 18 Mr. Mamo's claim that the house had been raised 6 feet
 19 was inaccurate, right?
 20 MR. TAMM: Objection to form and foundation.
 21 That's not what he's answered.
 22 MR. GLEESON: You can answer.
 23 THE WITNESS: I mean, that's -- Yeah. I mean,
 24 that 6 feet seems kind of high to me. Didn't seem
 25 right.

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1 Q (Continuing by Mr. Cronkhite): Okay. Did you have any
 2 evidence that the house had actually been raised above
 3 the predevelopment elevation levels?
 4 A No.
 5 Q Okay. Did you -- You initially reversed your
 6 conclusions in your August 24th, 2018, letter, correct?
 7 MR. GLEESON: What conclusion?
 8 THE WITNESS: No.
 9 Q (Continuing by Mr. Cronkhite): Okay. You in your -- You
 10 issued a second letter upon rereview of the site plan
 11 and other materials. You issued a letter on
 12 August {sic} 8th, 2018, right?
 13 A Correct.
 14 Q And you required things that you hadn't required in
 15 assessing Boss' site plan originally, correct?
 16 A Correct.
 17 Q Okay. Between the time of your August 24th, 2018,
 18 approval and your August {sic} 8th, 2018, letter, did
 19 you review records that showed that the elevation levels
 20 depicted in Boss' site plan were accurate?
 21 A No. I think I asked Brent LaVanway if the existing
 22 contours were prehome.
 23 Q Okay.
 24 A That's about the only . . .
 25 Q And he said no.

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1 A Correct.
 2 Q In that he -- In that the survey that he did was done
 3 after construction had begun, correct?
 4 A Correct.
 5 Q Okay. You didn't understand him to mean that the
 6 elevation levels did not reflect the predevelopment
 7 levels, just that the survey had been done after the
 8 home construction begun.
 9 A Correct.
 10 Q Okay. So I understand that Mr. Mamo communicated that
 11 to you. My question is was there any evidence, you
 12 know, whether it's a GIS record, an area map, any
 13 evidence that you had received between August 24th and
 14 October 8th that showed that the elevation levels in
 15 Boss' site plan didn't actually match the predevelopment
 16 elevations?
 17 A No.
 18 Q You didn't receive any evidence that Mr. Mamo's claim
 19 that the house had been elevated 6 feet was accurate,
 20 did you, between August 24th and October 8th?
 21 A No.
 22 Q In fact, as far as you knew, at the time you issued your
 23 October 8, 2018, letter David Mamo's claim that the
 24 house had been elevated 6 feet was still wrong.
 25 MR. TAMM: Objection to form.

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1 THE WITNESS: Correct.
 2 Q (Continuing by Mr. Cronkhite): You eventually in
 3 November of 2018 walked the property, correct?
 4 A Correct.
 5 Q Okay. And that confirmed what you would already
 6 concluded in terms of the home not being raised 6 feet,
 7 correct?
 8 MR. TAMM: Objection to form and foundation.
 9 THE WITNESS: I would -- No, I didn't feel
 10 like their house was raised 6 feet.
 11 Q (Continuing by Mr. Cronkhite): Okay. I want to make
 12 sure, after walking the land you again -- you
 13 reconcluded that Mr. Mamo's claim that the house had
 14 been raised 6 feet was inaccurate, correct?
 15 A Correct.
 16 Q Okay. And did you conclude that there was any elevation
 17 that had been added to the back of the house based on
 18 your walking the site?
 19 MR. TAMM: Objection to form and foundation.
 20 THE WITNESS: The northeast corner seemed kind
 21 of flat where I couldn't tell if it was filled or if it
 22 was just disturbed. That would have been my only
 23 concern.
 24 Q (Continuing by Mr. Cronkhite): But certainly -- So when
 25 you say "filled," it wouldn't have been filled multiple

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1 feet, raised multiple feet, because that would have made
 2 it cockeyed with the rest of the home, correct?
 3 A Correct. I would -- I would assume it was a foot.
 4 Q Relatively nominal change, if any?
 5 MR. TAMM: Objection to form and foundation.
 6 THE WITNESS: Correct.
 7 Q (Continuing by Mr. Cronkhite): It wouldn't have -- Let's
 8 just assume that there had been a foot added to that
 9 corner. That wouldn't have changed your conclusions in
 10 your August 24th, 2018, letter, would it have?
 11 A Well, the . . . As long as the swale that they're
 12 showing as existing went back to their limits of
 13 disturbance, then no, but a foot filled up back there
 14 could cause problems, yes.
 15 Q Okay. But you don't know whether that foot was added,
 16 do you?
 17 A Correct.
 18 Q Okay. That could have just been -- The disturbance
 19 could have just been part of building the home.
 20 A Correct.
 21 Q Okay. So at most you would be speculating in terms of
 22 whether a foot had been added or not added in that
 23 northeast corner?
 24 A Correct.
 25 Q Okay. After you issued your August -- or I'm sorry,

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1 October 8th letter, did you understand -- have you
 2 received any evidence that the topographical elevations
 3 depicted in Boss Engineering's site plan were accurate?
 4 A No.
 5 Q Okay. And similarly, after your October 8th letter at
 6 anytime have you received any evidence that the house's
 7 elevation has been raised 6 feet as claimed by Mr. Mamo?
 8 A No.
 9 Q Have you actually gone out to the property and done the
 10 topographical survey for the back of the property in
 11 this northeast corner?
 12 A No.
 13 Q Have you offered to do that for Milford?
 14 MR. TAMM: Have you offered access? Objection
 15 to form and foundation.
 16 MR. CRONKHITE: Have you -- Please don't ask
 17 me questions during my deposition, Jim.
 18 Q (Continuing by Mr. Cronkhite): Have you offered to
 19 provide a topographical survey for the northern part of
 20 land north of the house?
 21 A No.
 22 Q You haven't offered it.
 23 A No.
 24 Q Has Milford requested it?
 25 A Not that I'm aware of, no.

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1 Q Okay. Based on Boss' site plan, your review of the area
 2 map, you walking the land, it's safe to conclude that
 3 Boss' plan as it relates to the driveway is not going to
 4 change the property's water conditions as they existed
 5 predevelopment in terms of making them worse, correct?
 6 A Correct.
 7 Q Okay. So when we're talking about -- when we're
 8 speculating as to whether there has been changes to the
 9 back of -- I'm going to be more specific. When we're
 10 talking about and we're speculating about elevation
 11 changes that may have been made north of the house,
 12 we're talking about a completely separate concern from
 13 what the driveway presents, correct?
 14 A Correct.
 15 Q Okay. You understand, sir, that the Hacks and their
 16 agents have informed you, directly or indirectly, that
 17 there was no elevation added to the back of the
 18 property, right?
 19 A Correct.
 20 Q In your experience as an engineer for municipalities for
 21 20 years, when a party represents that there's been no
 22 changes to the elevation levels, is it normal to require
 23 them to go get a topographical survey?
 24 A When there's assumed flooding on adjacent parcel, then
 25 yeah.

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1 Q You've had that circumstance actually exist or you're
 2 just saying these circumstances it's different? I'm
 3 asking you whether in your actual experience has a
 4 property owner who is not claiming an elevation change,
 5 is it normal for a municipality to require them to go
 6 get a topographical survey before they can build on the
 7 property?
 8 MR. TAMM: Objection to form and foundation.
 9 Q (Continuing by Mr. Cronkhite): Do you have any direct
 10 experience of that?
 11 A No.
 12 MR. TAMM: You asked three questions. Which
 13 question are you answering? Don't answer if you --
 14 because he's asked three different questions. It's a
 15 compound question.
 16 Q (Continuing by Mr. Cronkhite): Sure. I'll rephrase.
 17 Have you ever been involved in a project in which a --
 18 Let's see, I can't even ask you that because you
 19 wouldn't be involved because the property owners haven't
 20 even -- Typically when you get involved in a plan review
 21 for a residential project it's because there is actually
 22 an acknowledgment by the property owner that the
 23 elevation level's being changed for some reason,
 24 correct?
 25 MR. TAMM: Objection to form and foundation.

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1 THE WITNESS: Correct.
2 Q (Continuing by Mr. Cronkhite): Okay. So the elevation
3 change that was reported to Milford regarded elevations
4 in connection with the driveway alone, correct?
5 A Correct.
6 Q Okay. There was no report from the property owner, the
7 Hacks, that there would be elevation changes to the back
8 of the property, correct?
9 MR. TAMM: Objection to form and foundation.
10 THE WITNESS: Not from the Hacks.
11 Q (Continuing by Mr. Cronkhite): From Mr. Mamo.
12 A From -- Yes.
13 Q Okay. Have you seen this document that I'm marking as
14 Exhibit 8?
15 (Exhibit 8 marked for identification).
16 THE WITNESS: Yes, I've . . .
17 Q (Continuing by Mr. Cronkhite): Okay. You identified
18 this as a site plan, as you would call it, that was
19 prepared for -- by someone for the Hacks in connection
20 with the project?
21 A Yeah. Yes.
22 Q Okay. And that there are handwritten notes on it from
23 David Mamo?
24 A I don't know that.
25 Q So --

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1 A There's handwritten notes, but I don't know if those are
2 his. I just assumed they were.
3 Q The handwritten -- You assumed they were.
4 A I -- Yeah.
5 Q Okay. You assumed they were because they matched David
6 Mamo's email to Mr. Green complaining of certain things,
7 correct?
8 A Correct.
9 Q Including that the elevation for the home was 6 feet
10 higher than grade, correct?
11 A Correct.
12 Q Okay. And that water was diverted on a particular path
13 as depicted in Exhibit 8, correct?
14 A Correct.
15 Q And that water diversion strictly involved property to
16 the north of the home, right?
17 A Or the northern part of the property.
18 Q North of the home.
19 A Yes.
20 Q Okay. It didn't involve south of the house.
21 A Correct.
22 Q Okay. It didn't involve the driveway area, correct?
23 A Correct.
24 Q Okay. So again, as you testified, what Mamo was
25 complaining about didn't have to do with the driveway

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1 area; it had to do with area north of the house that's
2 not along the driveway, correct?
3 A Correct.
4 Q So you concluded that Mr. Mamo's allegation that the
5 elevation of the home was 6 feet higher than grade was
6 inaccurate. Did you similarly conclude that the water
7 that was allegedly being diverted was incorrect?
8 Let me put it another way. Did you find any
9 evidence after looking at Boss' site plan, looking at
10 the area map, walking the property, did you find any
11 evidence that the -- that water was being diverted from
12 the Hacks' property north of their home to the Mamos'
13 property?
14 MR. TAMM: Objection to form and foundation.
15 THE WITNESS: Other than that disturbed area
16 to the northeast, no.
17 Q (Continuing by Mr. Cronkhite): So you -- The disturbed
18 area to the northeast, can you circle where that is on
19 Exhibit 7? I'm sorry, Exhibit 8.
20 A {Indicating on document}.
21 Q What evidence did you have that the water was actually
22 being diverted possibly by the disturbed area of that
23 northeast corner that you marked in Exhibit 8?
24 A Just from our site visit looking at it, it looks kind of
25 flat and I couldn't tell if the swale picked up that

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1 area.
2 Q You couldn't -- I mean, it's possible that that area
3 always affected the Mamos' property.
4 A Correct.
5 Q You just don't know one way or the other.
6 A Correct.
7 Q You weren't able to conclude definitively that this
8 area on Exhibit 8 that you marked was actually diverting
9 water to the Mamos, were you?
10 A No.
11 Q That's correct.
12 A That's correct.
13 Q Okay. This is Exhibit 9.
14 (Exhibit 9 marked for identification)
15 Q (Continuing by Mr. Cronkhite): Do you recognize this
16 email, sir?
17 A Yes.
18 Q Okay. And do you recognize this as Bill Rogers emailing
19 Donald Green to address Mr. Mamo's allegation concerning
20 Boss' site plan?
21 A Yes.
22 Q Okay. And you understood before August 24th, 2018, that
23 that Bill Rogers was the construction manager of the
24 Hacks' property and project?
25 A This email would have been the first time I knew that or

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1 was made aware of that.

2 Q Okay. But my point is that before you issued your

3 approval on August 24th, 2018, you understand -- you

4 understand who Bill Rogers was and what role he played

5 on the property and the project.

6 A No. I just assumed he was involved with -- I don't know

7 if he was the property owner or the builder or what.

8 Q Okay. You didn't know what role he was playing.

9 A Correct.

10 Q But you knew of him.

11 A Yes.

12 Q And you knew that Bill Rogers was representing to Don

13 Green before your August 24th, 2018, approval letter

14 that the house was not raised, correct?

15 A Correct.

16 Q Okay. And you knew that Bill Rogers had contested

17 Mamo's remaining allegations, correct?

18 A Correct.

19 MR. CRONKHITE: Mark this Exhibit 10.

20 (Exhibit 10 marked for identification)

21 Q (Continuing by Mr. Cronkhite): At some point Don Green

22 emails Ronald -- Roland, excuse me -- Alix about the

23 so-called drainage problem on the Hacks' property. Were

24 you aware of Mr. Green reaching out to Roland?

25 A Not -- I mean, I imagine Roland would have -- had talked

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1 to me after.

2 Q Did he talk to you after?

3 A Yes.

4 Q Okay. And was Roland Alix comfortable with your

5 approval on August 24th, 2018, after speaking to you?

6 A Yes.

7 Q Okay. Don Green agreed with your August 24th, 2018,

8 recommendation, did he not?

9 A Yes.

10 Q Okay. He informed you that he had gone over the Boss

11 site plan with Tim Brandt and that Tim Brandt also

12 approved it, right?

13 A Yes.

14 Q Okay. You understood that David Mamo attended a board

15 meeting of Milford Township after your recommendation

16 letter to approve Boss' site plan of August 24th, 2018,

17 and that Mr. Mamo claimed, basically contested, the site

18 plan, correct?

19 A I know that he attended the meeting with concerns about

20 drainage on his property. I don't know what was said or

21 what he contested.

22 Q Okay. Did you later speak to someone at Milford

23 Township about David Mamo's concerns?

24 A Yes.

25 Q Okay. Including Mr. Mazzara?

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1 A Yes.

2 Q Okay. What did Mr. Mazzara specifically tell you what

3 was problematic with the site plan that Boss proposed?

4 A It was more that there's no information provided up

5 north of the house.

6 Q Okay. Did you tell Mr. Mazzara that you had nonetheless

7 concluded for purposes of the driveway that that

8 material was immaterial?

9 MR. TAMM: Objection to form.

10 THE WITNESS: Yes.

11 Q (Continuing by Mr. Cronkhite): Okay. And Mr. Mazzara

12 nonetheless wanted you to impose additional requirements

13 on the Hacks in connection with their grading and fill

14 permit to build the driveway.

15 MR. TAMM: Objection to form and foundation.

16 Q (Continuing by Mr. Cronkhite): Is that correct?

17 A I don't -- I don't know if it was necessarily about

18 building the driveway. I think they were trying to

19 figure out what was happening with the drainage in the

20 back to the north of the house.

21 Q Understood. You testified earlier that whatever was

22 happening or not happening on the northern end, north --

23 on the property north of the house, that that wasn't

24 going to affect the drainage issues on the driveway

25 portion of the site plan, right?

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1 A Correct.

2 Q Okay. And so for purposes of building the driveway,

3 Mr. Mazzara's concerns had no effect on your

4 recommendation of August 24, 2018, did they?

5 MR. TAMM: Objection to form.

6 THE WITNESS: Correct.

7 Q (Continuing by Mr. Cronkhite): Okay. And you

8 communicated that to Milford, did you not?

9 A Yes.

10 Q Okay. And they nonetheless re -- directed you to review

11 the site plan and make additional requirements, correct?

12 MR. TAMM: Objection to form and foundation.

13 THE WITNESS: Well, it was more of they didn't

14 know what was going on here is what the requirements --

15 what we were asking for.

16 Q (Continuing by Mr. Cronkhite): When you say "here,"

17 you're talking about north of the house.

18 A North of the house, correct.

19 Q But you understood and communicated to Milford that what

20 the Hacks were requesting was permission to build a

21 driveway pursuant to site plan, correct?

22 A Correct.

23 Q And you testified that you concluded that this other

24 unknown issue north of the house had no bearing on Boss'

25 site plan as it related to the construction of the

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1 driveway, right?

2 MR. TAMM: Object to the form and foundation.

3 THE WITNESS: Correct.

4 Q (Continuing by Mr. Cronkhite): Okay. But Milford,

5 nonetheless, imposed requirements on the Hacks to build

6 a driveway when those requirements had nothing to do

7 with the unknown information on the Boss site plan,

8 correct?

9 MR. TAMM: Objection to form and foundation.

10 THE WITNESS: The additional information was

11 asked for because, without knowing what's going on back

12 here, they could not tell the Mamos that this house had

13 no impact on his property.

14 Q (Continuing by Mr. Cronkhite): Understood. I'm talking

15 specifically about the driveway. So the Hacks requested

16 permission to build a driveway and to put dirt

17 underneath it. You received Boss' site plan that

18 included calculations and topography elevations and you

19 approved that proposal. You later were told that there

20 was unknown information regarding north of the house,

21 which had no bearing on construction of the driveway or

22 its effect on drainage on that portion of the property

23 where the driveway laid, and Milford, nonetheless, as

24 part of reviewing the request to build the driveway,

25 imposed requirements, as reflected in your October 8th

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1 letter, that had no bearing on your review of the

2 driveway portion of the grading and fill permit

3 application.

4 MR. TAMM: I'm going to interpose an

5 objection, because now you've asked compound -- multiple

6 questions there. Your question's unclear. You've

7 repeatedly referred to a driveway permit. There was

8 never a driveway permit. There's a fill and grade

9 permit that was applied for by the Hacks. That was the

10 issue. It's not a driveway permit, there was never a

11 driveway permit, and I'm not going to allow you to

12 manipulate the witness to suggest that that's what is at

13 issue here. There was a fill and grade permit, and

14 that's what he was reviewing.

15 Q (Continuing by Mr. Cronkhite): Sir, the grade and fill

16 permit involved construction of the driveway, correct?

17 MR. TAMM: Objection. Objection to form and

18 foundation. It was a grade and fill permit. It applied

19 to the property.

20 Q (Continuing by Mr. Cronkhite): The grade and fill permit

21 that you reviewed and for which you issued your

22 August 24th letter involved construction of the driveway

23 and accounting for water displacement that would occur

24 in connection with the construction of that the

25 driveway, correct?

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1 MR. TAMM: Objection to form and foundation.

2 MR. GLEESON: Go ahead. You can answer.

3 THE WITNESS: Correct.

4 Q (Continuing by Mr. Cronkhite): Okay. You weren't aware

5 of any other issues about why the Hacks were applying

6 for a grading and fill permit other than construction of

7 the driveway, correct?

8 A I mean, I've heard that they had -- the neighbor had

9 drainage problems, so that -- I mean, that's what the

10 Township was looking at was are these proposed

11 improvements impacting the neighbor?

12 Q Right. And you understood that the grade and fill

13 permit that the Hacks submitted identified proposed

14 improvements, correct?

15 MR. TAMM: Objection to form and foundation.

16 THE WITNESS: Correct.

17 Q (Continuing by Mr. Cronkhite): And those proposed

18 improvements were regarding the driveway and buildout

19 and retention area, right?

20 A Correct.

21 Q There were no other proposed improvements that were

22 identified by the Hacks, right?

23 MR. TAMM: Objection to form and foundation.

24 THE WITNESS: That's what generated the second

25 letter is that there wasn't information provided behind

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1 the house, north of the house.

2 Q (Continuing by Mr. Cronkhite): Sir, in your 20 years as

3 an engineer, when someone is trying to build a home, a

4 residential home, is it normal for a municipality to

5 require a topographical survey of the land, the entire

6 land, as a default?

7 MR. TAMM: Objection to form and foundation.

8 THE WITNESS: I have not experienced that.

9 Q (Continuing by Mr. Cronkhite): Okay. Including in

10 Milford.

11 A Correct.

12 Q My point being is that in your experience the normal

13 protocol is that when there is an acknowledgment or

14 representation that dirt is being brought to property of

15 a certain quantity, that at that point a grading and

16 fill permit application might have to be filled out and

17 submitted to Milford.

18 MR. TAMM: Objection to form and foundation.

19 MR. CRONKHITE: If you even have that

20 experience. I don't know.

21 MR. TAMM: Objection to form and foundation.

22 THE WITNESS: Correct. But here you have a

23 property owner saying we didn't do anything, but then

24 you have a neighbor saying, yes, you did and there's

25 flooding on that property, so that's what generated

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1 that -- that's why the second letter was generated, for
2 the additional information.
3 Q (Continuing by Mr. Cronkhite): And you testified earlier
4 that you were unable to corroborate Mr. Mamo's claims
5 that the home had been elevated 6 feet, correct?
6 MR. TAMM: Objection. Foundation. That's
7 what he asked for.
8 THE WITNESS: Correct.
9 Q (Continuing by Mr. Cronkhite): You were unable to
10 corroborate any of Mr. Mamo's claims, correct?
11 A Correct. Due to lack of information provided.
12 Q Okay.
13 MR. TAMM: Take a break?
14 MR. GLEESON: Yeah. Sure. Take a break.
15 (Whereupon a recess was taken at or about the
16 hour of 4:25 p.m., and the deposition was resumed at or
17 about the hour of 4:33 p.m.)
18 (Exhibit 11 marked for identification)
19 Q (Continuing by Mr. Cronkhite): Sir, I'm going to hand
20 you what's been marked as Exhibit 11.
21 MR. GLEESON: Is that 11?
22 MR. CRONKHITE: It's 11, yes.
23 Q (Continuing by Mr. Cronkhite): Do you recognize this as
24 an email that Brent LaVanway sent to you on
25 October 15th, 2018?

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1 A Yes.
2 Q Okay. And Mr. LaVanway attached a county GIS map to
3 that email, correct?
4 A Yes.
5 Q Do you recognize this as that GIS county map that
6 Mr. LaVanway attached?
7 A Yes.
8 (Exhibit 12 marked for identification)
9 Q (Continuing by Mr. Cronkhite): Okay. And that's been
10 marked as Exhibit 12. You reviewed this county map that
11 Brent LaVanway sent you before you issued your
12 October 8th, 2018, letter, correct?
13 A Yes.
14 Q Okay. And did the topography -- Well, let me back up.
15 Is it your understanding this county GIS map
16 marked as Exhibit 12 showed the predevelopment contours
17 and elevations of the Hacks' property and surrounding
18 areas?
19 A Yes.
20 Q Okay. And were the elevation levels depicted in the GIS
21 county map consistent with what Boss Engineering had
22 depicted in their site plan?
23 A Yes.
24 Q Okay. So that fact supported your original August 24,
25 2018, recommendation and approval -- that the Boss site

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1 plan be approved.
2 A Yes.
3 Q Because you said -- you testified earlier that you were
4 assuming that the Boss site plan elevation levels were
5 accurate, right?
6 A Yes.
7 Q And this GIS county map showing the predevelopment
8 elevation and contours corroborated what Boss
9 represented in the site plan to you.
10 A Correct.
11 (Exhibit 13 marked for identification)
12 Q (Continuing by Mr. Cronkhite): Sir, do you recognize
13 this exhibit marked as Exhibit 13?
14 A Do I . . . What was the question?
15 Q Do you recognize the document?
16 A I recognize it, but I have never seen it.
17 Q Meaning you recognize this as being similar to the GIS
18 county map we were just talking about?
19 A Yes.
20 Q You don't recognize the handwriting on the document?
21 A No.
22 Q Okay. If you look at the arrows on this Exhibit 13,
23 would those roughly depict, based on your review of
24 various documents in connection with this property, the
25 drainage pattern of the surrounding area?

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1 A Yeah. It gives you an overall representation.
2 Q Okay. And the location of the house that's drawn on
3 Exhibit 13, does that appear also to be accurate?
4 A Yes.
5 Q And the northeast corner of that home on Exhibit 13 is
6 showing as being in the elevation area marked 962,
7 correct?
8 A Yes. It's more like 960.
9 Q Well, let's talk about that. The northeast corner is,
10 from what I'm looking at, is clearly in the area marked
11 926, correct, but the band next to it is 960?
12 A The northwest corner of the house, I'd say, is 962, so
13 I'm assuming that the one on the northeast corner is
14 960.
15 Q Okay. So if you look --
16 A And it runs through the middle of the house.
17 Q Right. So if you look at the 962 on Exhibit 13, there
18 is a contour line running, and then about an inch and a
19 half to the right of 962 there's another contour line,
20 correct?
21 A Yes.
22 Q Is it fair to say that the land in between those two
23 contour lines is all 962 elevation?
24 A In between it would be 960 . . . I think the contour
25 line running through the house is at 960.

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1 Q From the southern portion, yes. My question is the land
2 between those two contour lines we just talked about,
3 that is 962 elevation, correct?
4 A It's more like 961.
5 Q How can you tell that? Where does it say 961?
6 A Because 961 is between 962 and 960. These are 2-foot
7 contours, so you're . . . The accuracy isn't the
8 greatest. I read this as the house was existing at 960,
9 which would put it -- the ground floor at 962.67.
10 Q So what I'm looking at what's marked as the low area on
11 Exhibit 13 --
12 A Okay.
13 Q -- and that has a 958 contour line looping around it,
14 correct?
15 A Yes.
16 Q That 958 elevation applies to the entire area within
17 that contour perimeter, right?
18 A No, it's for that perimeter. For that line.
19 Q If it were lower than 958, wouldn't it be further marked
20 and designated within the GIS?
21 A No. It would -- It could be 957 and it wouldn't be
22 marked.
23 Q Okay. So it would have to be two feet or lower in order
24 to be marked.
25 A Correct. It would have to be 956.

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1 Q 956. Okay. So on the -- for the portion where the
2 house sits, the area between 962 and 960 you don't know
3 what the elevation level is exactly, but it's somewhere
4 within that band of 962 or 960.
5 A I would -- Looking at this, if that house is drawn in
6 the right spot, I would say the existing grade was 960.
7 Q I'm wondering how you're concluding that when the
8 land -- that line is not marked 960 that's running
9 through it.
10 A Well, it is over on the neighbor's parcel where that
11 arrow is if you follow it.
12 Q Can you show me with your finger where that's shown?
13 A Right there. Coming through there.
14 Q 960 here?
15 A Yeah. Isn't that coming up this way? And then 962's
16 over -- it would be above it here. If that house is
17 drawn in the right spot, it was raised 2.6 feet.
18 Q Well, sir, it -- so this line that is immediately -- May
19 I come over to the . . .
20 So where it is says 962 to the northwest corner
21 of the house, and then that's where this contour line
22 where that 962 lies atop.
23 A Yes.
24 Q And then the next -- immediate to the right of that 962
25 contour line is a 960 contour line, correct?

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1 A That's what I'm saying.
2 Q The house is in the middle of those bands.
3 A Well, it's kind of on the 960.
4 Q It is, but it's -- half of it is in the band between 962
5 and 960, right?
6 A Okay.
7 Q Okay. So the elevation level could be anywhere from 962
8 to 960.
9 A No.
10 MR. TAMM: Objection. Foundation.
11 THE WITNESS: I mean that line, that 960, it
12 is 960.
13 Q (Continuing by Mr. Cronkhite): On the line, but I'm
14 talking about the area north of the line.
15 A It could be 961.
16 Q Okay. It could be 962 as well.
17 A Well, 962 would be that line.
18 Q But it could be level the entire time it's coming east
19 from 962 and then go down to 960. You don't know
20 exactly --
21 MR. GLEESON: He's already rendered an opinion
22 on what it is.
23 MR. TAMM: Objection. Also, it calls for
24 speculation and it's . . .
25 MR. GLEESON: He's told you what he feels like

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1 as an engineer.
2 THE WITNESS: Typically the grade is going
3 down between the two elevations.
4 Q (Continuing by Mr. Cronkhite): Okay. So it's fair to
5 say that the house's northeast corner is residing in a
6 contour band that is between 962 and 960 elevation,
7 correct?
8 MR. TAMM: Objection to form.
9 THE WITNESS: The northeast corner is close to
10 960.
11 Q (Continuing by Mr. Cronkhite): I understand, but it's
12 between contour lines that are marked 962 and 960,
13 correct?
14 MR. TAMM: Objection. Foundation. Calls for
15 speculation.
16 THE WITNESS: The north half of the house,
17 yes.
18 Q (Continuing by Mr. Cronkhite): Okay. Including the
19 northeast corner.
20 A I . . . That's close to 960, that corner.
21 Q It is, but it's certainly not on the line or over the
22 line.
23 MR. GLEESON: You're arguing with the witness.
24 MR. CRONKHITE: I'm not.
25 MR. GLEESON: He's already rendered his

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1 opinion.
2 MR. CRONKHITE: He's giving very evasive
3 testimony where --
4 MR. GLEESON: He's not.
5 MR. CRONKHITE: We're all looking at the
6 same --
7 MR. GLEESON: He's not. He's repeated himself
8 five times. You're not listening.
9 MR. CRONKHITE: We're all looking at the
10 same --
11 MR. GLEESON: You don't like his answer. He's
12 giving you his answer.
13 MR. CRONKHITE: We're all looking at the same
14 document. It's an evasive --
15 MR. GLEESON: I know. I'm looking at it, too.
16 MR. CRONKHITE: It's an evasive answer.
17 MR. TAMM: It's not evasive.
18 MR. GLEESON: It's accurate.
19 THE WITNESS: It's closer to 960 than it is
20 962.
21 MR. CRONKHITE: Fair enough, but I'm simply
22 saying --
23 MR. TAMM: You know what?
24 MR. CRONKHITE: -- that the northeast
25 corner --

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1 MR. TAMM: It's been asked and answered. This
2 is bordering on harassment. I mean, how many times do
3 you have to ask it?
4 MR. CRONKHITE: That is not harassment, Jim.
5 MR. TAMM: It is if you --
6 MR. CRONKHITE: I don't understand, despite
7 his testimony, I don't understand how you conclude the
8 northeast corner is --
9 MR. GLEESON: He's an engineer and that's how
10 he reads it. He's given you his opinion. If you don't
11 like it, fine.
12 MR. CRONKHITE: My question is very simple.
13 The northeast --
14 MR. GLEESON: He answered it.
15 MR. CRONKHITE: No, he hasn't answered it.
16 MR. GLEESON: Yes, he has.
17 Q (Continuing by Mr. Cronkhite): The northeast corner of
18 this house is on -- between contour lines marked 962 and
19 960, correct?
20 MR. TAMM: Objection to form.
21 THE WITNESS: It's . . . I feel it's closer to
22 960 than 962.
23 Q (Continuing by Mr. Cronkhite): I understand, but on the
24 map that we have marked as Exhibit 13, the northeast
25 corner is on -- in between contour lines marked 962 and

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1 960.
2 MR. TAMM: Asked and answered.
3 THE WITNESS: Sure.
4 MR. CRONKHITE: Okay. The document speaks for
5 itself. I'm not sure why --
6 MR. GLEESON: It does and he's interpreted it
7 for you, but that's fine.
8 MR. CRONKHITE: I didn't ask him to interpret
9 it, Kevin. I asked him to just corroborate what the
10 document says.
11 MR. GLEESON: Well, he's not going to
12 corroborate your opinion about it, because he has his
13 own opinion.
14 MR. TAMM: And it's 2-foot contours.
15 MR. CRONKHITE: All right. I'm going to mark
16 this as Exhibit 14.
17 (Exhibit 14 marked for identification)
18 Q (Continuing by Mr. Cronkhite): Sir, is this the email
19 that attached your October 8th, 2018, revised letter
20 regarding the Hacks' property?
21 A Yes.
22 Q Okay. And this second page of Exhibit 14 is your
23 October 8th, 2018, letter that we've previously
24 discussed.
25 A Yes.

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1 Q Okay. So this letter from October 8, you're requesting
2 the Hacks provide, in effect, more information, correct?
3 A Correct.
4 Q Okay. It's not an approval letter of what the Hacks
5 were requesting to do, correct?
6 A Correct.
7 Q Okay. And because, based on what the calculations you
8 were requesting and the other information that you were
9 requesting showed, that could affect whether you
10 recommended for approval or disapproval Boss' site plan,
11 correct?
12 A Correct.
13 Q Okay. You requested in this October 8th letter a
14 10-year storm calculation, correct?
15 A Yes.
16 Q In connection with a residential single-family detached
17 residence have you ever requested a 10-year storm
18 analysis to be done?
19 A Not for residential.
20 Q But you've done it for commercial or industrial
21 properties.
22 A Yes.
23 Q Okay. But in the 800 site plans that you've done never
24 have you requested a 10-year storm analysis for the
25 residential properties.

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1 MR. TAMM: Objection to form.
 2 THE WITNESS: Correct.
 3 Q (Continuing by Mr. Cronkhite): Who came up with that
 4 idea?
 5 A I would have because of the Mamos' claim that there was
 6 flooding on their property and there was not information
 7 provided on the north side of the house, so we needed
 8 to -- maybe there's something else going on here that we
 9 can't see, so I was hoping with that information that
 10 would show that the proposed improvements are not
 11 impacting the Hacks. Or the Mamos, I'm sorry.
 12 Q A 10-year storm plan, that -- you're talking about the
 13 maximum amount of precipitation that would be caused in
 14 a 10-year period, correct?
 15 A Correct.
 16 Q Okay. You look at what? To determine that you look at
 17 averages in the area and come to a 10-year calculation?
 18 A Yes.
 19 Q Okay. So it's the maximum amount of water that on
 20 average would fall in any 10-year time frame on a piece
 21 of property.
 22 A Correct.
 23 Q Okay. How do you know -- Strike that.
 24 Wouldn't a 10-year rainfall on the Hacks'
 25 property predevelopment cause flooding?

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1 A Yes.
 2 Q And given the nature of the Mamos' property and the fact
 3 that it has elevation levels that match the Hacks'
 4 elevation levels of 958 in certain spots, wouldn't a
 5 10-year storm cause flooding on the Mamos' property?
 6 A I don't know. That's kind of why I was asking. I kind
 7 of wanted this to eliminate the whole Mamos' claim that
 8 it -- water was going on the property.
 9 Q Now, what my question is, you understand, based on the
 10 nature of the surrounding land and the fact that there's
 11 950 elevation levels on the Hacks' property and the
 12 nature of a 10-year storm, that a 10-year storm
 13 predevelopment would have caused flooding on the Hacks'
 14 property, right?
 15 MR. TAMM: Objection to form and foundation.
 16 THE WITNESS: Yes.
 17 Q (Continuing by Mr. Cronkhite): Okay. So given that the
 18 Mamos' property is similarly situated, has 958
 19 elevations, it's safe to assume that a 10-year storm
 20 would cause flooding on the Mamos' property as well
 21 predevelopment, correct?
 22 A No, because the flooding has more to do with the volume
 23 than an elevation. Just because they're the same
 24 elevations, there's stuff that could be happening in
 25 between.

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1 Q So you recognize that there is an area on the Mamos'
 2 parcel of property that has a 958 elevation between the
 3 barn and the house?
 4 A Yes.
 5 Q Okay. And do you know whether the volume of that 958
 6 area would contain a 10-year storm?
 7 A I don't know that.
 8 Q Okay. It's a smaller area than the area on the Hacks'
 9 property that is at a 958 elevation, isn't it?
 10 A Yeah, but their -- the Mamos' property flows to the
 11 east, where this property here I was more concerned with
 12 the low area, how much volume the low area can hold.
 13 Q On the Hacks' property.
 14 A Correct.
 15 Q The Hacks' property flows to the east as well, doesn't
 16 it?
 17 A It kind of flows to the south, to that low area.
 18 Q The land in the Mamos' property that has the 958
 19 elevation, certainly when water falls down onto their
 20 parcel, the property -- the water is going to gravitate,
 21 at least some of it, to the 958 low-lying area on their
 22 property, correct?
 23 A Not if there's a 957 . . .
 24 Q But there is no such 957.
 25 A I don't know that.

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1 Q Have you not looked at the elevation levels of Mamos'
 2 property as reflected in the GIS county records?
 3 A Yeah. Those are 2-foot contours. A lot could happen
 4 between 2 feet across one parcel.
 5 Q You visually identified this low-lying area in the
 6 Mamos' yard, correct?
 7 A No. In the Mamos' or the Hacks'?
 8 Q The Mamos'.
 9 A No.
 10 Q So you're saying that you, without -- you can't use the
 11 county records to determine whether water is going to
 12 flow to the 958 low elevation on the Mamos' property
 13 when rain comes on their property? I mean, you're
 14 looking at the GIS records right now. I mean --
 15 A Yeah. Yeah, there's . . . You cannot tell that within
 16 2-foot contours. If you look to the east of the Mamos'
 17 property, it's getting down to 954 and 952. There's one
 18 tiny little circle, that 958. But 2-foot contours, like
 19 I said before, just gives you a general idea of what's
 20 going on, not -- it's not finite enough. If you had
 21 like a survey of the property like Boss did here, you'd
 22 be able to tell.
 23 Q Certainly the low-lying nature of the Mamos' property in
 24 terms of it being 958 relative to other areas that are
 25 surrounding the 958 area, such as 960 to the west, 962

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1 to the south, suggests that it's at least possible that
2 water could accumulate in that 958 area between the barn
3 and the house of the Mamos, correct?
4 MR. TAMM: Objection to form and foundation.
5 Calls for speculation. He's already testified.
6 THE WITNESS: Possibly.
7 Q (Continuing by Mr. Cronkhite): Yes. It's a low-lying
8 area on the Mamos' property, is it not?
9 A With these two-foot contours possibly, yeah.
10 Q Well, it's lower than the 962 and the 960 contours of
11 their property, right?
12 A That little -- You're looking at this little circle
13 here?
14 Q Yes.
15 A Yes.
16 Q There's not a lower area that's marked on the GIS county
17 map, is there?
18 A Right.
19 Q Okay. So the fact that there is water accumulating
20 there as reported by the Mamos, that could just be from
21 natural water accumulation regardless of what's
22 happening on the Hacks' property.
23 MR. TAMM: Wait. Now you're saying that
24 nowhere has it -- in this record has it been
25 demonstrated that where the Mamos were claiming about

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1 water was at the spot of elevation of 958 feet. Where
2 did that come from?
3 MR. CRONKHITE: Oh, it's pretty clear on the
4 map -- or the photographs that I've been provided.
5 MR. TAMM: I don't think that that's an
6 accurate . . . I you think you're --
7 MR. CRONKHITE: Fair enough. I think that's
8 going to come out, and I think we already have discovery
9 exchanged that shows flooding in that area that's marked
10 958.
11 Q (Continuing by Mr. Cronkhite): My only point is, sir,
12 you're speculating -- you'd be speculating in terms of
13 where the rain would accumulate on the Mamos' property.
14 Let me strike that.
15 Given the elevation levels that you do know
16 that are reflected in GIS county maps, a 10-year storm
17 which generates a lot of water would presumably cause
18 some amount of flooding on the Mamos' property.
19 MR. GLEESON: That's been asked and answered
20 three times.
21 MR. TAMM: Joined.
22 THE WITNESS: Possibly.
23 Q (Continuing by Mr. Cronkhite): Possibly. You don't
24 know.
25 A I don't know. Correct.

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1 Q But you're confident that a 10-year storm would have
2 caused flooding on the Hacks' property predevelopment.
3 A Yes.
4 Q So meaning it doesn't matter what the Hacks did to the
5 property, there would have been predevelopment flooding
6 anyway based on a 10-year storm.
7 A Yes.
8 Q Have you ever requested a residential property owner to
9 provide an area map showing the entire tributary area in
10 connection with the residential owners improvement of
11 his or her property?
12 A I don't recall doing that, no.
13 Q I want to make sure I understand. Did you discuss with
14 Milford the requirements that you recommended in your
15 October 8th letter before you issued your letter?
16 A Yes.
17 Q Was there input from Milford in terms of what should be
18 required?
19 A Yes. I mean, we pretty much -- we pretty much just had
20 a discussion of the Mamos are saying there's flooding,
21 why is that? The stuff here, the items that were asked
22 for, would help us determine that, whether it's caused
23 by the Hacks' property or if it was an existing
24 condition from the Mamos.
25 Q Was the -- Who was part of the discussions on Milford's

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1 side to help formulate this October 8th letter?
2 MR. TAMM: Objection to form and foundation.
3 Q (Continuing by Mr. Cronkhite): Or the recommendations
4 therein.
5 A Don Green, their attorney, the Township's attorney.
6 Q Jennifer Elowsky?
7 A Yes.
8 Q Who else?
9 A And Bill Mazzara.
10 Q Okay. No one else.
11 A No. Tim -- Well, no. Tim Brandt . . . If Tim came, he
12 came toward the end. He wasn't there at the beginning.
13 Q Did any one of those three individuals make specific
14 recommendations that are contained in your October 8th
15 letter?
16 MR. TAMM: Well, I'm going to object and ask
17 that he not answer any questions, because he's indicated
18 that the Township attorney was present, and the Township
19 attorney, the conversations would be privileged.
20 MR. CRONKHITE: It does not involve legal
21 advice.
22 MR. TAMM: It's not true.
23 MR. CRONKHITE: It involves an engineer making
24 engineering requirements as part of this permitting
25 process.

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1 MR. TAMM: It's not true.
2 MR. CRONKHITE: It's not attorney-client
3 privileged communications.
4 MR. TAMM: There was threatened litigation at
5 the time that this happened, so -- and that's why the
6 Township attorney was involved, so absolutely it's
7 protected by attorney-client privilege. If you want to
8 --
9 MR. CRONKHITE: It wasn't threatened
10 litigation, Jim, because we didn't know that Milford was
11 busy at work creating hurdles --
12 MR. TAMM: Well --
13 MR. CRONKHITE: -- that we couldn't jump over.
14 MR. TAMM: It's --
15 MR. CRONKHITE: So that's not true. We didn't
16 know about the threat of litigation until we got this
17 letter in which there was complete reversal of the
18 August 24th requirement -- or no requirements, so --
19 MR. TAMM: Well, I --
20 Q (Continuing by Mr. Cronkhite): -- if we put aside
21 Jennifer Elowsky's statements, did Bill Mazzara or Don
22 Green make any other requirements known to you that you
23 ultimately put in your October 8th letter?
24 A It was just more of a group discussion how do we get
25 answers. Not directly, no. These were all engineering

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1 discussions that we had and this is what we came up
2 with.
3 Q Did Milford's participants provide input in terms of
4 what should be required that you ultimately in some form
5 incorporated in your October 8th letter?
6 A They questioned the size of the culvert, but that was
7 more of a capacity conveyance question, I guess. That's
8 about it. I mean, everything else was trying to fill in
9 the information that we didn't have.
10 Q Okay. But they were part of requesting that information
11 from the Hacks as reflected in your October 8th letter.
12 MR. TAMM: Objection to form and foundation.
13 MR. CRONKHITE: They wanted that information,
14 correct, sir?
15 MR. TAMM: Objection. It's a
16 mischaracterization of his testimony.
17 MR. CRONKHITE: You can answer the question.
18 MR. TAMM: I'm going to object. It's a
19 mischaracterization of his testimony.
20 THE WITNESS: What's the question?
21 Q (Continuing by Mr. Cronkhite): The Milford participant
22 that you previously identified --
23 A Yes.
24 Q -- wanted the information that you put in your
25 October 8th, 2018, letter requesting from the Hacks,

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1 didn't they?
2 A They wanted that information because it wasn't provided
3 on the plans.
4 Q So before you issued your October 8th letter you were
5 involved in conversations with Bill Mazzara, Don Green,
6 and Jennifer Elowsky in which you guys jointly discussed
7 making these requirements of the Hacks as reflected in
8 your October 8th letter.
9 MR. TAMM: Objection to form and foundation.
10 One, it's been asked and answered. Two, it's a
11 mischaracterization of his testimony.
12 Q (Continuing by Mr. Cronkhite): You can answer the
13 question.
14 A They were . . . The concern was the missing information
15 north of the house and the neighbor complaining about
16 flooding in that area, so these questions were asked to
17 help fill in the gaps of information that was not
18 provided.
19 Q And these participants you previously identified told
20 you what they allegedly wanted in order to fill those
21 gaps, correct?
22 MR. TAMM: Objection to form and foundation.
23 THE WITNESS: No, it -- No, it had . . . We
24 had the discussion that what information do we need to
25 tell Mamos that the Hacks' property was not changed back

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1 there to cause any problems on his parcel. It was more
2 that the Township was asking for the information so they
3 could tell Mamo there's no problem.
4 Q (Continuing by Mr. Cronkhite): Well, couldn't you have
5 simply done a topographical survey of the back of the
6 property and confirmed it with the GIS records to see
7 that it had not been touched? Couldn't you have done
8 that?
9 A Boss Engineering could have done it.
10 Q I'm asking whether you or the Township through you could
11 have done that --
12 MR. TAMM: Objection to form and foundation.
13 Q (Continuing by Mr. Cronkhite): -- to address the
14 uncorroborated allegations made by Mr. Mamo.
15 MR. TAMM: Objection.
16 THE WITNESS: We've never done that in the
17 past.
18 Q (Continuing by Mr. Cronkhite): Okay. But you've never
19 done a lot of things in the past that you've done in
20 this case, right?
21 MR. TAMM: Objection to form and foundation.
22 Q (Continuing by Mr. Cronkhite): Fair to say? Yes?
23 MR. TAMM: Objection to form.
24 THE WITNESS: Yes.
25 Q (Continuing by Mr. Cronkhite): So my question is very

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1 simple: If you went out there to the property and took
 2 a topographical survey of the back of the house without
 3 doing all these extra requirements in terms of doing
 4 calculations and 10-year storm studies, couldn't you
 5 very quickly determine whether the Hacks had altered the
 6 back of the property and thus affected the
 7 predevelopment conditions?
 8 MR. TAMM: Objection to form and foundation.
 9 THE WITNESS: We could.
 10 Q (Continuing by Mr. Cronkhite): So you don't need to do a
 11 10-year study, storm study, in order to determine
 12 whether the Hacks' development changed what was existing
 13 already precondition or predevelopment.
 14 A The storm -- That drainage area map would be -- it's a
 15 pretty minor task to do.
 16 Q No. My point is that the 10-year storm study could show
 17 a significant amount of rain volume, correct?
 18 A Yes.
 19 Q And probably would, because there's a lot of rain in a
 20 10-year storm study.
 21 A It's most frequent, or one of the most frequent, so yes.
 22 Q So my question is if the topography that's missing were
 23 shown to reflect the predevelopment topography, what
 24 does the 10-year storm analysis have anything to do with
 25 it?

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1 A Well, what I wanted to know was the volume from that
 2 storm, what elevation had filled up his pond and if that
 3 pushed water onto this property. There's is no -- I
 4 mean, if you figure that out and say, oh, the 960
 5 contour is your -- provides that volume, it would have
 6 went through the culvert and back over here onto this
 7 property. That's all I wanted was someone to tell me,
 8 oh, it's at, you know -- If it's 958, cool. It's right
 9 there. And you tell --
 10 Q But a 10-year -- But, sir, a 10-year storm could cause
 11 that water to go over on the Mamos' property anyway
 12 without the proposed development, correct?
 13 MR. GLEESON: You've asked this question five
 14 times now.
 15 MR. CRONKHITE: No, he -- No, I haven't asked
 16 this specific question.
 17 MR. TAMM: You've asked it multiple times.
 18 Q (Continuing by Mr. Cronkhite): The specific question as
 19 it relates to a 10-year storm on the Hacks' property,
 20 that could push property -- that could push water on the
 21 Mamos' property regardless of what the Hacks were doing
 22 on the property, right?
 23 MR. TAMM: Objection. Objection to form. It
 24 calls for speculation, which is -- and he's already
 25 asked and answered it.

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1 THE WITNESS: It could.
 2 Q (Continuing by Mr. Cronkhite): The idea is if the
 3 displacement caused by the dirt underneath and on the
 4 sides of the driveway is accounted for by creating extra
 5 retention area, you don't need a 10-year storm analysis
 6 to determine whether it matches the predevelopment
 7 conditions, do you?
 8 MR. TAMM: Objection. Argumentative. It's
 9 asked and answered.
 10 THE WITNESS: You could. The reason it was
 11 asked for is because of the lack of information here,
 12 which I --
 13 Q (Continuing by Mr. Cronkhite): On the northern side of
 14 the prop -- on the northern --
 15 A Yes. We're trying to determine if there's something
 16 else going on here that we don't know due to the lack of
 17 information.
 18 Q I want to peg down the very specific question I'm
 19 asking. The 10-year storm on the Hacks' property, it's
 20 going to create an certain amount of rain --
 21 A Yes.
 22 Q -- predevelopment or post-development, right?
 23 A Hm-hmm.
 24 Q 10-year study. It's just a mixed number. If the Boss'
 25 site plan accounted for any displacement that is going

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1 to occur by virtue of the dirt going on the side or
 2 underneath the driveway by creating extra area in the
 3 retention pond, the 10-year fixed number isn't going to
 4 affect your conclusions regarding displacement, are
 5 they?
 6 A I don't know that, because there's no information here.
 7 The water could back up into here. If this was filled,
 8 which we don't know, water could back up from here this
 9 way.
 10 Q I'm sorry, you're pointing to the Mamos' property.
 11 A Yeah, on the east property line.
 12 Q I want to understand how the northern topography that's
 13 missing would affect the 10-year storm potentially going
 14 over on the Mamos' property.
 15 MR. GLEESON: Take him the path of the water,
 16 how it flows.
 17 MR. TAMM: And I'm going object to the form
 18 and foundation.
 19 THE WITNESS: Well, I mean if -- Another
 20 option here is Boss Engineering could have called and
 21 asked, talked to me about this, or they could have
 22 responded or provided additional information. My main
 23 concern was a certain amount of volume of water comes in
 24 here and then let's just say it goes to the 960 contour.
 25 Once it gets to here, I have no idea what's going on,

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1 and if -- The whole purpose of this was to say if it
2 came back at the 958 contour was good, then there's no
3 question it's all contained on the site, it doesn't
4 matter if this was filled back here. We don't know if
5 this was filled back here. If this was filled --
6 MR. TAMM: You're indicating -- Just for the
7 record, you're indicating where the house is built and
8 everything north, because it's not going to come out on
9 the record. Everything -- Where the house was
10 constructed and everything north of that, you don't know
11 whether that's filled.
12 THE WITNESS: Correct. And that if that was
13 filled in and this volume of water could get pushed to
14 the east on the Mamos' property.
15 Q (Continuing by Mr. Cronkhite): I apologize. I don't
16 follow you at all how property -- how an area that is --
17 I mean, what is that, a hundred feet removed? The north
18 of the house is a hundred feet removed from the proposed
19 excavated area, correct? At least a hundred feet based
20 on the scale of the site plan you're looking at?
21 A Yes.
22 Q So I'm trying to understand if the dis -- if the water
23 that is going to be displaced by the land that the Hacks
24 have reported through Boss will be brought to go
25 underneath on the side of the driveway is being

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1 accounted for in the retention area that's going to be
2 expanded, how does the northern topography that's
3 hundred feet removed have any effect on that?
4 MR. GLEESON: He didn't understand what you're
5 testifying to. That's the problem. A 10-year storm
6 event -- He doesn't know if the 10-year event can be
7 accommodated by the elevations in this low area that is
8 being designed. That's what he's telling you.
9 Q (Continuing by Mr. Cronkhite): Sir, but you don't know
10 that whether a 10-year event -- whether that area would
11 have accommodated a 10-year event predevelopment.
12 MR. GLEESON: No. That's the information
13 we're looking for.
14 MR. TAMM: Predevelopment --
15 MR. GLEESON: You tell us it can make it, then
16 there's no worry up here. That's what he's trying to
17 tell you.
18 Q (Continuing by Mr. Cronkhite): What happens if a 10-year
19 event would have caused flooding on the Mamos' property
20 from the Hacks' property? Was it Milford's position
21 that the Hacks had to expand the retention area to
22 accommodate a 10-year storm even though it caused
23 flooding on the Mamos' property predevelopment?
24 A The whole issue is we don't know that this area around
25 the house, if that was filled and took away existing

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1 volume prehouse that was here before. Honestly, I was
2 asking this question because I thought it was an easy
3 answer that showed that water from a typical storm does
4 not go on the Mamos' property.
5 Q (Continuing by Mr. Cronkhite): A typical storm, sir, is
6 not a 10-year storm event.
7 A It's not?
8 MR. TAMM: You don't --
9 MR. GLEESON: That's a standard.
10 MR. CRONKHITE: Maybe I misunderstand. A
11 10-year --
12 MR. GLEESON: You can have 500 10-year storm
13 events in the course of a 10-year period. You know
14 that?
15 MR. CRONKHITE: A 10 -- My understanding of a
16 10-year storm event -- maybe we're using different
17 terms -- is that it's the average maximum rainfall in a
18 10-year -- any 10-year period of time.
19 MR. GLEESON: Yeah. It can happen multiple
20 times.
21 MR. CRONKHITE: I disagree that that's the
22 standard.
23 MR. TAMM: Okay.
24 MR. GLEESON: Been an engineer for four years,
25 but you tell me that. Go ahead.

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1 Q (Continuing by Mr. Cronkhite): And yet you've never
2 required a 10-year storm analysis in connection with any
3 other residential property.
4 A I've never had neighbors of other residential
5 properties --
6 Q Make uncorroborated claims?
7 A Complain about flooding on their property, so I probably
8 have.
9 Q But it's just never materialized until after 20 years of
10 being an engineer. This is the first time.
11 MR. TAMM: Objection to form and foundation.
12 Q (Continuing by Mr. Cronkhite): Correct?
13 A Correct.
14 Q You don't know whether the Hacks' property could have
15 accommodated a 10-year storm event predevelopment.
16 A Correct.
17 Q That's amazing. You guys are making me prove a
18 negative.
19 MR. TAMM: We're not making you prove
20 anything.
21 MR. GLEESON: All we're asking for him to do
22 is a very quick calculation, but you won't let him do
23 it, so. He'd probably throw it in for free.
24 Q (Continuing by Mr. Cronkhite): You visited the property
25 of the Hacks in November of 2018, correct?

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1 A Yes.
2 Q Okay. And you had an opportunity to see the area
3 behind -- I should say to the north of the home of the
4 Hacks, correct?
5 A Yes.
6 (Exhibit 15 marked for identification)
7 Q (Continuing by Mr. Cronkhite): Okay. Does this picture
8 reflect the condition of the area north of the Hacks'
9 property on the day you visited in November 2018?
10 A Yes.
11 Q Okay. Does it look, based on this photo, that the land
12 has been elevated --
13 MR. TAMM: Objection.
14 MR. CRONKHITE: -- above what was there
15 predevelopment?
16 MR. TAMM: Objection. Form and foundation.
17 THE WITNESS: I can't answer that.
18 Q (Continuing by Mr. Cronkhite): So you have reviewed the
19 GIS county records now for this plat of land, correct?
20 A Yes.
21 Q Okay. And we concluded that the home was sitting on a
22 band of land somewhere between 962 and 960 --
23 A 960.
24 Q -- elevation.
25 A Yes.

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1 MR. TAMM: 960.
2 THE WITNESS: 960 and 962, yes.
3 Q (Continuing by Mr. Cronkhite): Okay. And you see that
4 the land that is behind the -- or north of the home in
5 Exhibit 15 is gradually sloping away from the home
6 itself, correct?
7 MR. TAMM: Objection to form and foundation.
8 THE WITNESS: To the north?
9 Q (Continuing by Mr. Cronkhite): To the north.
10 A I can't tell that from the picture, but that's my
11 understanding.
12 Q So that the -- You see that in this picture that only a
13 slight area of property north of the home has actually
14 been improved, right?
15 A Well, I don't -- Looking back -- Can I look back
16 at the --
17 Q You can look at whatever you want.
18 A Looking at that other exhibit, there's a lot more.
19 Where this house is shown on Exhibit 13, to me it looks
20 like a lot more of the vegetation and trees was removed
21 then, kind of what I thought was going on while we were
22 out there that day.
23 Q Well, that Exhibit 13, that's the first time you've ever
24 seen that mark -- I mean, you don't know exactly whether
25 that's actually where the house is relative to the plat,

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1 right?
2 A Right. I'm assuming it because it's got a house drawn
3 on it and it says "house."
4 Q Yeah, well, it's hand-drawn, but it's not to scale or
5 anything. Based on your visual review of the land, it
6 doesn't look like a significant amount of brush was
7 removed, does it?
8 MR. TAMM: Objection to form and foundation.
9 MR. GLEESON: If you know.
10 MR. TAMM: If you know.
11 THE WITNESS: I don't know. It . . .
12 MR. GLEESON: Okay.
13 Q (Continuing by Mr. Cronkhite): There is certainly behind
14 the -- To the north of the home there's not a vast
15 change in grade from where the house is sitting to where
16 the brush starts --
17 A The tree line.
18 Q Yeah, the tree line.
19 MR. TAMM: Objection to form and foundation.
20 THE WITNESS: There's not . . . There's not a
21 long distance.
22 Q (Continuing by Mr. Cronkhite): Not a long distance. The
23 elevation hasn't changed drastically between the house
24 and tree line, does it?
25 A From the deck to the tree line, I would -- it looks

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1 pretty flat.
2 Q In the picture. You've looked at the property. You
3 looked at the home. The home itself, from the home
4 where the deck's attached to the tree line there's not a
5 radical change in the elevation, is there?
6 A No.
7 Q No. The plan that was submitted by Boss represented
8 that the GFE of the land on which the home sat was
9 962.67, correct?
10 A Yes.
11 Q Okay. And so the land between that land in which the
12 home sits and the tree line is not going to be radically
13 different than 962.67, is it?
14 MR. TAMM: Objection to form and foundation.
15 THE WITNESS: Today, no, but I don't know that
16 prehome.
17 Q (Continuing by Mr. Cronkhite): Well, we've looked at the
18 GIS county records which show that this is on a band of
19 land marked 962, which is consistent with --
20 MR. TAMM: Okay. Again, now you're
21 mischaracterizing his testimony intentionally. He said
22 multiple times that the band that ran through the house
23 was 960.
24 Q (Continuing by Mr. Cronkhite): Okay. So you're talking
25 about at most a change in two feet.

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1 A 2.67.
 2 Q Sir, you're -- Based on the GIS county records and the
 3 elevations depicted in that and the Boss site plan and
 4 finally your inspection of the property, you're
 5 confident in concluding that the elevations behind the
 6 home are not causing any water to flow on the Mamos'
 7 property that wouldn't have occurred anyway
 8 predevelopment; isn't that accurate?
 9 A No. I cannot confirm that.
 10 Q What would you need to confirm it? The topographical
 11 survey of the back of the proper -- the north of the
 12 property?
 13 A That corn -- Yes.
 14 Q And what would it need to show in order to confirm that
 15 the construction on the Hacks' property isn't causing
 16 water to drain onto the Mamos' property?
 17 A It would have to show the tree line, the limits of
 18 disruption, and the swale that's labeled on the plans
 19 along the east property line would need to go back to
 20 that disruption spot and pick up any drainage from the
 21 rear of the house.
 22 Q Sir, but you can never look at anything predevelopment
 23 on this parcel to determine whether that would have
 24 occurred any -- the flooding on the Mamos' land would
 25 have occurred anyway. Isn't that a problem?

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1 A I mean, looking at the GIS map, it looks like water came
 2 down through the house to the low area and now there's a
 3 house there so the side you got swale would need to
 4 be -- pick up any rear-yard drainage.
 5 Q My point is is that if they did the topographical
 6 survey, and let's just say it showed 963 in the back
 7 of -- in north of the home, there's nothing that you
 8 could look at predevelopment to say that, oh, it was the
 9 Hacks' home that caused this issue.
 10 A Other than these -- the county maps, no.
 11 Q Okay. But the county maps -- The county maps, as you
 12 testified, are not precise.
 13 A Correct.
 14 Q So you don't know -- So my point is the topographical
 15 survey is not going to actually show whether the Hacks'
 16 activities on the property are causing water to go onto
 17 the Mamos' property.
 18 A Unfortunately, no, but we need to know -- having that
 19 swale pick up the rear-yard drainage would pretty much
 20 solve the whole question back here.
 21 Q I understand. I understood the point, but it's not
 22 normal in your experience for a municipality to require
 23 a residential land owner to mitigate pre-existing water
 24 issues, correct?
 25 MR. TAMM: Object.

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1 THE WITNESS: The problem is we don't know
 2 that.
 3 MR. CRONKHITE: And there's no way to know it.
 4 MR. TAMM: Objection.
 5 THE WITNESS: Right. So all we can deal with
 6 is what we have now.
 7 Q (Continuing by Mr. Cronkhite): Why don't the Mamos have
 8 to show that there's a flooding issue caused by the
 9 Hacks? Why do the Hacks have to show it?
 10 A I don't know.
 11 MR. GLEESON: Why don't you take it up with
 12 the Mamos?
 13 MR. TAMM: Because the Mamos have been there
 14 for 40 years.
 15 THE WITNESS: And I don't think the Mamos
 16 changed as -- usually --
 17 MR. GLEESON: The elevation of their property
 18 goes that way.
 19 MR. CRONKHITE: I'm nearly done.
 20 MR. TAMM: What's that?
 21 MR. CRONKHITE: I'm nearly done.
 22 MR. TAMM: Well, we're going to have to
 23 continue, because I -- There's no way. He's got to get
 24 home and you've got to go.
 25 MR. GLEESON: Yeah. Do you want to do just

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1 one more exhibit and then we'll call it a night?
 2 MR. CRONKHITE: I shouldn't have done that. I
 3 shouldn't have done the abbreviated one like this, but I
 4 was trying to accommodate your schedule. Yeah, we're
 5 going to have to.
 6 THE WITNESS: Okay.
 7 MR. GLEESON: It is what it is. I didn't
 8 think it was going to go this long.
 9 MR. CRONKHITE: Well, it's . . .
 10 MR. GLEESON: Does the next line of
 11 questioning, R.J., is it going to take longer than 10
 12 minutes?
 13 MR. CRONKHITE: No. I just want him to
 14 confirm this GIS map.
 15 MR. GLEESON: Okie dokie.
 16 (Exhibit 16 marked for identification)
 17 Q (Continuing by Mr. Cronkhite): I'm handing you what's
 18 been marked as Exhibit 16. Do you recognize this as
 19 being part of a GIS -- the county GIS records for the
 20 Hacks' parcel and the surrounding area?
 21 A Yes.
 22 Q Okay. And this is from 2008, meaning this is what the
 23 land would have looked like in 2008?
 24 A Okay.
 25 Q I mean, is that your understanding of this document?

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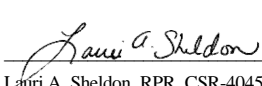

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1 A If that's what the 2008 there means, the year 2008, then
 2 yes.
 3 Q Okay. So Oakland County GIS' records would normally
 4 have a designation such as the one that is atop this
 5 Exhibit 16, right? I mean, does anything in this
 6 document indicate that it's not an Oakland County GIS
 7 record?
 8 A No.
 9 Q Okay. And this parcel that's marked 16-20-200-039, you
 10 recognize that as being the parcel of the Hacks,
 11 correct?
 12 A Yes.
 13 Q And then the property to the east of that marked
 14 16-20-200-029, you recognize that as being the property
 15 of the Mamos, correct?
 16 A Yes.
 17 Q Okay. You never had any complaints from any one of the
 18 other neighbors about the Hacks' construction or water
 19 problems, correct?
 20 A No.
 21 MR. TAMM: Objection to foundation. He
 22 doesn't get the complaints.
 23 Q (Continuing by Mr. Cronkhite): You're not aware of any
 24 such complaints.
 25 A No.

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1 Q Just from the Mamos.
 2 A Correct.
 3 Q Okay. The elevation levels that are depicted in this
 4 Exhibit 16 for the Hacks' property are consistent with
 5 those reflected on the Boss site plan, correct?
 6 MR. TAMM: Objection. Form.
 7 THE WITNESS: Yes. They're pretty close.
 8 MR. CRONKHITE: All right. I have no further
 9 questions for now, but I'm not done with the deposition.
 10 I probably have another hour.
 11 MR. GLEESON: I know Jim's got some direct,
 12 right?
 13 MR. TAMM: Cross, not direct. Cross.
 14 MR. GLEESON: Cross.
 15 MR. TAMM: Absolutely.
 16 (Whereupon the deposition was adjourned at or
 17 about the hour of 5:33 p.m.)
 18
 19
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 25

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1 STATE OF MICHIGAN)
 2)ss.
 3 COUNTY OF MACOMB)
 4
 5
 6 I certify that this transcript is a complete, true
 7 and accurate record of the testimony of MICHAEL DARGA to the
 8 best of my ability.
 9
 10 I also certify that prior to taking this deposition
 11 MICHAEL DARGA was duly sworn by me to tell the truth.
 12
 13 I also certify that I am not a relative or employee
 14 of a party, or a relative or employee of an attorney for a
 15 party, have a contract with a party, or am financially
 16 interested in the aforementioned action.
 17
 18
 19
 20  
 21 Lauri A. Sheldon, RPR, CSR-4045
 22 Notary Public, Macomb County, Michigan
 23 My commission expires: 2-8-2022
 24
 25

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