

Mr. Murphy stated the Application in front of the Zoning Hearing Board seeks one item of Relief which is a Special Exception. He stated a Special Exception is a use that is included in the range of uses that are contemplated in the District, and in this case it is the Office/Research O/R District in Lower Makefield. Mr. Murphy stated the property has been owned by Mr. Dwyer's client since 2006. Mr. Murphy stated over the last thirteen years, he and Mr. Dwyer have participated in numerous meetings before various Boards and Commissions in the Township trying to identify a use that would make sense for this corner. Mr. Murphy stated in 2006 and 2008, Mr. Dwyer and Mr. Garton had a Land Development Plan that went through the Township that resulted in the approval of an Office project of 180,000 square feet. Mr. Murphy stated that Plan has never moved forward from the point in time when it received Final Land Development Plan Approval.

Mr. Murphy stated for the last eleven years, there has been continuing dialogue with the Township about other appropriate uses that might make sense for this corner. Mr. Murphy stated throughout this whole period, the Ordinance that allows warehouse and distribution has never changed so that has always been a potential use for this property. Mr. Murphy stated given the advent of ecommerce, now there is far greater interest in the warehouse and distribution use than there ever has been since Mr. Dwyer's client has owned the property.

Mr. Murphy stated they recently submitted an Application to permit the development of this site for a one-story, 125,000 square foot warehouse. Mr. Murphy stated the Board will hear Testimony from the Witnesses present this evening in support of this Application. Mr. Murphy stated they feel the Application is relatively straight forward, and the Board will hear that all the objective criteria in the Ordinance to permit this warehouse use on this particular property can be met so that they can move forward. Mr. Murphy stated in the absence of a better alternative, Mr. Dwyer's client has reached the point where they want to proceed given their long-term ownership of the site and the viable option of this use.

Mr. Murphy asked Mr. Garton to provide his business address. Mr. Garton stated he is with Gilmore & Associates, 65 E. Butler Avenue, New Britain, PA. He stated Gilmore is a Civil Engineering firm. Mr. Garton stated he has been employed full-time by Gilmore for sixteen years. Mr. Garton stated he is a Licensed, professional engineer registered in the Commonwealth of Pennsylvania, and he has been registered for ten years.

Mr. Murphy asked Mr. Garton to describe the scope of his responsibilities in his employment as a professional engineer with Gilmore; and Mr. Garton stated he does a lot of Municipal work, and for this Application he was responsible for doing the design of the warehouse. He stated he is the appointed Municipal engineer in Horsham Township, New Britain Township, Perkasie Borough, and has done special projects in New Britain Borough, West Norriton

Township, and Upper Moreland. Mr. Murphy asked Mr. Garton if he has been asked to testify before bodies such as the Zoning Hearing Board in Lower Makefield or other Municipalities in the general area; and Mr. Garton agreed, adding that he actually testified in front of the Zoning Hearing Board as part of the Office Plan when they received a Variance to disturb the man-made steep slopes on the property.

Mr. Murphy offered Mr. Garton's Curriculum Vitae which was marked as Exhibit A-5. Mr. Murphy Moved for the admission of Mr. Garton as an expert in the field of Civil Engineering, and this was acceptable to the Zoning Hearing Board.

Mr. Murphy stated in his opening remarks he noted that in November, 2008 there was a Plan Approved for this site for 180,000 square feet of Office, and Mr. Garton agreed. Mr. Murphy stated Mr. Garton had just indicated that he was the project engineer for that project as well, and Mr. Garton agreed. Mr. Murphy asked Mr. Garton to describe the property. Mr. Garton stated there are three separate Tax Parcels, and the property is located on Stony Hill Road and Township Line Road. He stated a number of years ago, Stony Hill Road got realigned with Township Line Road which created Stony Hill Road making the left-hand turn. Mr. Garton stated to the north of the site is the Prickett farm, to the east is what used to be I-95, which is now 295, to the south is Stony Hill Road and some office buildings, and to the west is Shady Brook Farm. He stated the site is approximately 14.8 acres Zoned O/R-Office Research. Mr. Murphy asked Mr. Garton if the parcels he described immediately adjacent to it similarly Zoned, and Mr. Garton agreed. Mr. Murphy asked Mr. Garton if the site at 14.8 acres conforming or not in terms of its land mass; and Mr. Garton stated there is a legal non-conformity in that the minimum tract size required is twenty-five acres.

Mr. Murphy marked as Exhibit A-6 the original 2008 Land Development Plan for Office. This Plan was shown on the screen. Mr. Garton stated this is the original Record Plan that received approval in 2008. He stated it shows an H-shaped building. He stated it was 60,000 square feet with three stories for a total of 180,000 square feet of Office. He stated it had two access points on Stony Hill Road, and he showed on the Plan the right-in, right-out only access, and showed an access to the north which was a full-movement access that lined up with the Shady Brook Farms driveway. Mr. Garton stated as part of that project there were four underground basins as well as two traditional basins, the locations of which he showed on the Plan. Mr. Garton stated there was approximately 720 parking spaces that were associated with the Office building which were required by Ordinance at that time.

Mr. Murphy stated in his opening remarks, he indicated that beyond the Approval of the 180,000 square foot Plan, that Plan was never further pursued to a point where anything ever got built; and Mr. Garton agreed. Mr. Murphy stated they will defer to Mr. Dwyer to discuss what happened between 2008 and 2019. The location of the Shady Brook farm driveway was shown as well.

Mr. McCartney asked if the positioning of the driveways coming in and out was based on Traffic Studies, sight lines, etc.; and Mr. Garton agreed. He stated those access points had received approval from PennDOT at that time. He stated the PennDOT approval was in 2009. He stated they received Preliminary Approval from the Township late in 2008, and then started the PennDOT process in 2009. Mr. Murphy stated the access points on the 2008 Plan for the Office were reviewed and approved by PennDOT, and Mr. Garton agreed.

Mr. Murphy stated Mr. Garton also prepared the Plan which is being presented this evening which is a Sketch Plan. Mr. Murphy asked Mr. Garton to explain the differences between the engineered Plan from 2008 and the Sketch Plan that is being reviewed this evening. Mr. Garton stated the major difference is that instead of the H-shaped Office building, they now have a 125,000 square foot warehouse building. He stated It is one story, so that although the footprint is larger from a building perspective, It is less square footage because it is only one story instead of three. He stated because Warehouse does not require as much parking as General Office, there are only 252 parking spaces versus the 720 so there is a reduction of roughly 500 parking spaces. Mr. Garton stated there is therefore a reduction in the amount of impervious surface that is proposed on this Plan compared to the Office Plan. Mr. Garton stated this Plan will Still have the stormwater basins out front, and there will probably be some underground stormwater; however, they are not at that point yet in terms of design as this is just a Sketch Plan. Mr. Garton stated the points of ingress and egress are the exact same locations as the previous Plan, and the previous Plan had been designed to allow for large tractor trailers to get in and out of the site with the same size trucks that are being contemplated for this use so they felt it was best to keep the access points at the same locations.

Mr. DosSantos asked about the impervious surface; and Mr. Garton stated the 2008 Plan had roughly 60% impervious surface, and this Plan has 54% impervious surface. Mr. Murphy stated in both cases those impervious limits were within the Ordinance Mandates, and Mr. Garton agreed.

Mr. Gruen asked if you will be able to get in and out of both driveways; and Mr. Garton stated the one that is furthest to the south is a right-in, right-out only, and the one that lines up with the Shady Brook Farm driveway is a full access driveway.

Mr. Murphy stated Mr. Garton had indicated that the stormwater facility would still be located along the front of the site near the intersection of Stony Hill and Township Line Roads, and Mr. Garton agreed adding there is an existing basin there now that was created when Stony Hill Road was realigned. Mr. Murphy stated that basin was not done by the property owner but was done as part of the reconstruction, realignment, and widening of Township Line Road, and Mr. Garton agreed. Mr. Murphy stated the design of the stormwater facilities to service the warehouse is only at the Sketch Plan stage and has not been fully-engineered; and Mr. Garton agreed. Mr. Garton stated that the previous Plan was fully-engineered; and since there is less impervious on this Plan, they are confident that they can engineer the Plan to meet all the Township stormwater requirements.

Mr. Murphy asked if there is any access from either the Office Plan or this Plan to what used to be known as I-95, now known as I-295; and Mr. Garton stated there is not. Mr. Murphy stated there are no other access points proposed other than the two with Mr. Garton described both on this Plan and the prior approved Office Plan, and Mr. Garton agreed.

Mr. Murphy asked Mr. Garton if other than the Special Exception is he is aware tonight if there are any other aspects of this Plan from a Zoning perspective that would require relief, and Mr. Garton stated there is no other Zoning relief needed.

Mr. Murphy stated a Special Exception is “somewhat of a misnomer because is it neither special nor an exception,” and Mr. Garton agreed. Mr. Murphy stated in the Township Ordinance Section 200-48.B(8) there is reference to the range of permitted uses by right, by Conditional Use, and by Special Exception, and warehousing and distribution is one of those Special Exception uses; and Mr. Garton agreed.

Mr. Murphy asked Mr. Garton in terms of its intensity, is it his expectation given his design of both projects that the warehouse use will be far less intense as opposed to the 180,000 square feet of permitted Office; and Mr. Garton agreed. Mr. Murphy stated unlike other Special Exception uses, the Lower Makefield Ordinance does not have any other specific criteria identified as either warehouse or distribution that the Applicant would have to satisfy; and Mr. Garton agreed. Mr. Murphy stated what is in the Ordinance are more generalized Conditions that would be applicable to all Special Exceptions, and Mr. Garton agreed. Mr. Murphy stated those standards are found in Section 200-98 of the Ordinance. Mr. Murphy noted Section 200-98 A.3 which highlights those generalized standards that any Special Exception use in the Township would have to meet.

Mr. Murphy noted Item #1 states, “Will the use be in accordance with the Comprehensive Plan and in accordance with all the Zoning Ordinance and Subdivision Ordinance requirements.” Mr. Garton stated it will because this is a Use that is permitted by Special Exception in the O/R Zoning District. Mr. Murphy stated Mr. Garton has indicated that we are not seeing any other Zoning relief, and Mr. Garton agreed. Mr. Murphy asked Mr. Garton if it is his intention to comply, if they reach that stage, with the Subdivision and Land Development Ordinance requirements; and Mr. Garton agreed. Mr. Garton added that the previous Plan did receive some Waivers which were approved by the Board of Supervisors at the time; and while they have not gotten to that stage yet, he would anticipate that some of those same Waivers will be asked for again.

Mr. Murphy asked if the site will be connected to public water and sewer, and Mr. Garton agreed. Mr. Murphy asked if the parking arrangement, number of parking spaces, and the lighting proposed to minimize glare on adjacent properties will all be in accordance with the standards in the Ordinance; and Mr. Garton stated they will meet all of the requirements.

Mr. Murphy stated all the minimum area and yard requirements of the District will be satisfied, and Mr. Garton agreed. Mr. Murphy stated other than the existing non-conformity regarding the overall tract size, they will comply with every other standard in the Zoning Ordinance, and Mr. Garton agreed.

Mr. Gruen asked if they have done a new Traffic Study since 2008, and Mr. Garton stated they have a traffic engineer present with them this evening who will Testify.

Mr. DosSantos stated with regard to the illumination, he assumes that the Office park would not have been a twenty-four-hour operation so that the lights would be off at some point and the parking lot would be dimmer compared to what would be the situation now with this proposal which would be a twenty-four-hour operation. Mr. Bob Dwyer stated it is possible this could be used twenty-four, seven; and while they do not yet have a tenant lined up, most warehouses are open twenty-four hours. Mr. DosSantos stated he assumes the illumination would therefore be more at night given this is a full-time operation, and Mr. Garton agreed. Mr. DosSantos stated this would be more illumination compared to what was approved in 2008, and Mr. Garton agreed. Mr. Garton added that on this Plan, compared to what was approved in 2008, all the parking and the building are actually further away from the property lines and set back further from the road. He stated while the lights would potentially be on longer, it is that much further away from the property lines; and with the new technology for lighting and cut-offs, they would meet all criteria in the Ordinance in terms of light spillover, intensity, etc. Mr. DosSantos asked if he would anticipate that the light spillover and intensity would be less now than it was in 2008, and Mr. Garton agreed since everything is being pulled away from the property line compared to the 2008 Plan.

Mr. Gruen asked what is the reason to have 260 parking spaces. Mr. Garton stated the Plan shows 252 parking spaces for passenger vehicles, and forty-five bays for tractor-trailers. Mr. Gruen asked the anticipated number of employees at the site.

Mr. Dwyer stated typically a project of this size would only have about forty-five employees, and the Township parking requirements are well beyond what they need. He stated at the time of Land Development approval, they may ask that they be able to put some of the parking spaces in grass pavers or in reserve so that they are only built if necessary. He stated they do not anticipate ever having to use 250 parking spaces. Mr. DosSantos stated the Plans reflect the parking requirements per the Ordinance and not necessitated by the use, and Mr. Dwyer agreed.

Mr. Murphy asked Mr. Garton to discuss the calculations and how he determined the need for the 252 parking spaces. Mr. Garton stated the Ordinance requires one parking space for every 500 square feet of gross floor area, so on a 125,775 square foot warehouse facility you come up with 252 required parking spaces. He stated when they had the 2008 approval, the Board did not want the developer to construct all of the required parking spaces at one time; and they were encouraged by the Township to enter in a Reserved Parking Agreement, and only build them if necessary. He stated they would work with the Township to do something similar in this case since the Ordinance far exceeds what a warehouse would need from a parking standpoint; however, they are showing that they can comply with the Zoning Ordinance.

Mr. Murphy stated they also show forty-five loading dock bays; and Mr. Garton showed on the Plan where these are located in the back, and they cannot be seen from Stony Hill Road. Mr. Gruen asked if they expect only forty-five tractor trailers there at a time or if they would have tractor-trailers there waiting to get into a bay. Mr. Dwyer stated that is difficult to say since if all the bays were full, which would be unlikely, it is possible a tractor-trailer may have to pull up and wait. He stated until they have a user identified, he cannot guarantee what the turnover may be. He stated they believe forty-five bays will be sufficient and most likely will not require any of the trucks to wait or take up any of the parking spaces. He stated they will deal with that during Land Development if in fact they do need storage for waiting trucks.

Mr. DosSantos asked if this is intended to be a one-tenant operation; and Mr. Dwyer stated that is the most likely scenario, although it is possible. Mr. McCartney asked if they have identified their tenant; and Mr. Dwyer stated they have not. He stated Equus has 17 million square feet of warehousing in the United States, and they talked to and know of a number of companies that are interested in this with

eCommerce the way it is today. Mr. McCartney asked if there is the potential that it would not be tractor-trailers that would be using the site, and that it would be small delivery trucks; and Mr. Dwyer stated that is possible but they cannot commit to that. Mr. Dwyer stated the Traffic Study would not identify that because the Traffic Study will be done before they have a tenant. He stated the tenant and the type of truck will probably be dealt with more during the course of the Land Development Approval. Mr. McCartney asked how they could do an accurate Traffic Study if they do not know what kind of traffic is going in and out of the site, and Mr. Dwyer stated Chris Williams from McMann will testify to that. Mr. Gruen asked if the tractor-trailers would be of a standard size of 55' to 60' long; and Mr. Dwyer stated it would be a typical tractor-trailer.

Ms. Lee asked if they have a Certificate from the Sewer Authority, and Mr. Dwyer stated they had sewer capacity for the Office which had far greater needs than the warehouse will so they have sewer capacity. Ms. Lee stated that was in 2008, and there are some serious sewer issues that are effecting LMT right now. She asked if there will be showers for the truck drivers, and Mr. Dwyer stated they have sufficient capacity to meet the DEP standards for warehousing base do their calculations.

Ms. Kirk stated she is present on behalf of the Township who is seeking Participation in the project. Ms. Kirk stated looking at the proposed Sketch Plan, the right-in/right-out access shows a pork chop, and Mr. Garton agreed. Ms. Kirk asked the width of that lane from side to side where the pork chop is located. Mr. Garton stated the incoming width of the pork chop on the right-hand side is 21.7 feet wide, and the outgoing is either 16' or 18'. He stated the actual width of the driveway as it goes further back in the site is 24' wide. Ms. Kirk stated that is a two-lane driveway, and Mr. Murphy stated it is one in and one out. Ms. Kirk stated it appears that the incoming lane from Stony Hill Road into the site is approximately 21' wide at the pork chop, and Mr. Garton agreed. Ms. Kirk asked if that provides sufficient room for a tractor-trailer to maneuver into the site, and Mr. Garton agreed adding that they did extensive truck-turning templates at the time of the PennDOT approval and to the Township engineer demonstrating that there was sufficient room for tractor-trailers to use that entrance. Ms. Kirk asked why is the side for the exit lane of less width; and Mr. Garton stated it is a function of the rear wheels when you make the right-hand turn in from the right-hand side, it requires a wider section in order for it not to hop the curb. Ms. Kirk asked if this is based on the PennDOT approval from 2008, and Mr. Garton stated the approval was actually in 2009. Ms. Kirk asked if Mr. Garton is aware of any safety changes over the last ten years with respect to calculation of the turning radius for tractor-trailers, and Mr. Garton stated he is not. Ms. Kirk asked if anyone has submitted anything to PennDOT to determine if there are any changes in turning radius for tractor-trailers; and Mr. Garton stated they have not, but if this Plan moves forward they would need to go back to PennDOT because the HOP has expired, and they would have to get a new approval from PennDOT for these access points.

Ms. Kirk noted the other access point that is directly across from the Shady Brook Farm entrance, and she asked what is being done to avoid conflicts with left-turn lanes. She asked if there are any roadway improvements approved. Mr. Garton stated at the time of the prior Plan, there was only some minor shoulder widening required along the Applicant's frontage and some changing in the striping in terms of the left-turn lane to make a left onto Stony Hill Road. Ms. Kirk stated she does not believe the Stony Hill entrance is clearly marked for traffic coming out of Shady Brook Farm making a left turn, and asked what will be done to avoid a head-on collision with a vehicle or truck coming out of the Applicant's property making a left-hand turn. Mr. Garton stated it is not uncommon to line up roads to go across from each other. He stated if a truck is making a left turn out, drivers need to drive safely and look at traffic around them. He noted again that PennDOT reviewed this extensively, and all their concerns were addressed at that time.

Mr. Murphy stated the warehouse plan has not yet been the subject of a formal review by PennDOT, and Mr. Garton agreed. Mr. Gruen stated the 2008 review is irrelevant to the Zoning Hearing Board because it was approved for cars – not tractor-trailers. Mr. Murphy stated they understand that if this Plan moves forward it will have to be reviewed by PennDOT, and the Township will be involved when it is being reviewed. He stated Stony Hill and Township Line Roads are State roads, and they have to be reviewed. He stated improvements may be required because it is a proposed warehouse as opposed to the Office. Mr. Gruen stated as of right now coming out of Shady Brook Farm, they put a sign there that you cannot make a left turn there on certain days. He stated there are major problems at the intersection.

Ms. Kirk stated in looking at the parking spaces along the frontage of the building, it appears that there are four rows, and Mr. Garton agreed. Ms. Kirk noted the first row closest to Stony Hill Road dead ends, and it appears that if all the spaces are occupied, a vehicle would have to back up to get out. Mr. Garton stated when they get to Land Development, they will address that concern, and it would not be a dead end, but will loop into the other aisle; and any of the spaces that are lost to do that could be relocated to other areas on the property. He stated they fit 720 spaces on the site so fitting 252 is not difficult. Ms. Kirk stated that dead end is flexible; and Mr. Garton stated this is just a Sketch Plan, and they were more concerned with the use and the general lay out than all of the Subdivision and Land Development issues. He stated they can comply with all the SALDO requirements.

Mr. Chris Williams was called and stated he works for McMann Associates which is a transportation engineering and planning firm where he is a principal of the firm, and in situations such as this he serves as a Project Manager. Mr. Williams stated he has a Bachelor's Degree in Civil Engineering from the University of Delaware. He is a Licensed Professional Civil Engineer in the Commonwealth of Pennsylvania since 1998. Mr. Williams stated he serves in a capacity where he represents Land Development projects such as the Application this evening in all matters relative to traffic. He stated the bulk of his time is actually spent serving as a Municipal traffic engineer, and represents several Municipalities as their traffic engineer and has done so in Montgomery County and at the present time represents several Municipalities in Chester County. He reviewed the professional associations he is involved in including the Institute of Transportation Engineers which is an organization that provides resources that traffic engineers use in all matters relative to traffic similar to what they are present for this evening.

Mr. Murphy marked as Exhibit A-7 Mr. Williams' resume and offered him as an expert in the field as a traffic engineer; and this was acceptable to the Board.

Mr. Murphy asked Mr. Williams if he is the traffic engineer for the warehouse project being considered this evening, and Mr. Williams agreed. Mr. Murphy asked about his familiarity with the property and his involvement with the preparation of the Plans made reference to by Mr. Garton. Mr. Williams stated he is very familiar with the property and the roads surrounding the property. He stated while he did not prepare the Plans, he is in the process of preparing traffic information that supports the Plan.

Mr. Murphy noted the points of ingress and egress which Mr. Garton testified were the same two that were part of the 2008 Office Plan Approval. Mr. Murphy stated one is a full-movement intersection that would be aligned with the existing Shady Brook Farm entrance, and to the south there is a right-in, right-out access point.

Mr. Murphy asked Mr. Williams about the classification of Stony Hill Road and Township Line Road. Mr. Williams stated Stony Hill Road and Township Line Road as it continues to the south are classified as Arterial Roads within the Township's Comprehensive Plan. It stated it is a five-lane road and provide two through lanes in each direction and a center turn lane. Mr. Murphy asked if a proposed warehouse use such has been described this evening would most appropriately be located on an Arterial Road, and Mr. Williams agreed.

Mr. Murphy asked about the access points, and Mr. Williams stated they are very logical. He stated with regard to the full-movement access, as was approved with the Office Plan, it is located opposite the driveway for Shady Brook Farm; and that is intended to consolidate access points which specifically minimizes conflicts between those driveways. He stated further to the south is the right-in, right-out access which is an extremely benign access with regard to traffic operations in that it is accommodating right-turn movements. He stated he has no concerns with regard to the access locations or design.

Mr. Murphy asked about the internal circulation identified on the Plan including maneuverability of trucks that would be loading and unloading materials at the facility and the location of the forty-five bays that would back up to I-295. Mr. Williams stated in terms of internal circulation, he believes this would continue to be reviewed in more detail and designed in more detail during Land Development; however, at the Sketch Plan Phase, the internal circulation is very efficient. He stated it provides complete circulation within the property and around the building with the exception of the parking lot modification that Mr. Garton spoke of earlier with regard to the removal of the dead-end parking. He stated aside from that there is complete circulation for both passenger vehicles and trucks.

Mr. Murphy asked if the Ordinances of Lower Makefield Township that govern Land Development require that a Traffic Study be prepared and submitted as part of any Land Development submission, and Mr. Williams agreed. Mr. Murphy asked him what type of information and collaboration would be required from the Township's own traffic consultant in the preparation of that Study. Mr. Williams stated at some point during the process whether it is before the Traffic Study is prepared or after the Traffic Study is prepared, typically they would confer with the Township's traffic engineer as well as with PennDOT in this case to review all aspects of the Traffic Study and focus on the scope of the Study. He stated the scope of the Study typically would address certain scenarios – existing traffic conditions and projecting traffic conditions to a future year which would be the anticipated opening year for the development; and in that second scenarios they would be looking at traffic operations in that future year with background traffic but without the warehouse development. He stated in the third and final scenario, they would layer the warehouse traffic onto the future traffic conditions. He stated the purpose of any Traffic Study is to evaluate the incremental change in traffic conditions that could possibly occur with the development. Mr. Williams stated for a development such as this, they would focus on the peak rush hours which are the morning peak hour and the evening peak hour because this site would generate traffic during those hours, and those are also the hours of the day when the traffic is highest on the surrounding road systems so they

are looking at the worse-case condition. He stated they would also focus on some of the key intersections surrounding the site, and at this point they would focus most notably on the Stony Hill Road/Township Line Road intersection immediately to the south, and the Stony Hill Road intersection with the By-Pass immediately to the north.

Mr. Murphy asked if that Traffic Study described has been authorized or prepared given that they are not at the Land Development stage. Mr. Williams stated they have started some traffic work, but they are not in a position where they have anything prepared to be submitted at this point.

Mr. Murphy marked and provided Exhibit A-8, which is an analysis that Mr. Williams has undertaken that compares the traffic impacts associated with the approved 2008 Office Plan with the anticipated impacts of the proposed 2019 warehouse Plan. Mr. Murphy stated Exhibit A-8 is a letter dated today written by Mr. Williams that has a chart comparing those two projects.

Mr. Williams stated the Institute of Transportation Engineers is the “go-to resource” for traffic information. He stated they are required to use this resource in preparing Traffic Studies, and it is a resource he relies upon when he is representing Land Development Applications, and when he is reviewing Land Development Applications for Municipalities. He stated it is something that the Township has accepted in other Land Development Applications, and they are required to use it for PennDOT as well. Mr. Williams stated they are comparing the traffic that would be generated by the Warehouse Use and comparing it to the traffic that would be generated by the 2008 approved Office Development. He noted Page #2 where it shows that previously-approved Office development of 180,000 based on ITE estimates generates 1,878 trips over the course of a full day; and during the weekday morning peak hour, the approved Office would generate 196 trips and 199 trips during the weekday evening rush hour. He stated by comparison a Warehouse Use, relying on data that is available through the Institute of Transportation Engineers, would generate 976 trips over the course of a full day so it is 902 less trips than an Office Use. Mr. Williams stated during the morning rush hour, the Warehouse Use would generate 88 trips during the weekday morning peak hour which is 108 trips less than the approved Office Use; and during the weekday evening rush hour, the Warehouse Use would generate 80 trips which is 119 trips less than the approved Office Use.

Mr. Williams stated also shown in parentheses along the Warehouse row are estimates of truck traffic for a Warehouse Use, again based on data that is available through the Institute of Transportation Engineers; and what it shows that over the course of a full day a generalized Warehouse Use would generate 80 truck trips, with 4 truck trips in the weekday morning peak hour, and 5 truck trips during the weekday afternoon peak hour. Mr. Williams stated in his professional opinion the impacts that would occur from a Warehouse Use are much less than what would have been estimated and accounted for in the Township's and PennDOT's Approval of the 180,000 square foot Office Development. He stated given the road system that surrounds the site and given the fact that Stony Hill Road is an arterial road and intersects with another arterial road at the By-Pass, it is his opinion that the capacity of the roads are sufficient to accommodate the traffic from a Warehouse Use.

Mr. DosSantos stated they are referring to the 10th Edition of the publication, and he asked if that is the current Edition of the ITE; and Mr. Williams agreed. Mr. DosSantos stated they are talking about a high cube parcel hub Warehouse as reference, and he asked for a definition of this. Mr. Williams stated as defined by ITE a high cube parcel hub Warehouse is used primarily for the storage and/or consolidation of manufactured goods prior to their distribution to retail locations or other warehouses; and typically they serve as regional and local freight forwarder facilities. Mr. DosSantos asked Mr. Dwyer if that is the anticipated use, and Mr. Dwyer agreed.

Mr. Gruen asked Mr. Williams if he gave any value to a tractor-trailer being the length of six cars in his calculations. Mr. Gruen stated they are comparing the cars to the tractor-trailers but a tractor-trailer is the length of approximately six cars. Mr. Williams stated for the purposes of this comparison, they are simply comparing individual vehicles so a truck would be one vehicle and a car would be one vehicle. He stated in preparing a Traffic Impact Study what they are looking at is changes in traffic conditions, and they are looking at changes in delay. He stated when they assess the traffic conditions that are created by a Warehouse Development, at that point they do take into consideration the fact that a truck does behave differently than a passenger vehicle due to its length, so that is factored into the process as part of the Traffic Impact Study. Mr. Gruen stated that will be later on, and they are asking the Zoning Hearing Board to approve something now when they do not know what the answer is going to be.

Mr. Gruen asked Mr. Williams if he has been at the site and watched the traffic there, and Mr. Williams stated he has. Mr. Gruen asked if he has been there at 5:00 p.m., and Mr. Williams stated he has. Mr. Gruen asked if he is convinced that there will be no problems with the tractor-trailers turning toward the By-Pass. Mr. Gruen stated if a tractor-trailer comes out, he feels it will block the traffic for miles. He stated as it is now they "are standing still" from the By-Pass to the entrance of Shady Brook.

Mr. Williams stated part of what Mr. Gruen is asking will be further evaluated during the course of preparing a Traffic Study. He stated he does have access to existing traffic data in the study area which he has reviewed. He stated 85% of the trucks in the area today are using Newtown By-Pass, and only 15% of the trucks are traveling further to the south. He stated they anticipate that trend will continue. He stated they fully anticipate that 85% of the trucks from this development will be going to and from the By-Pass since it is the highest order road in the area, it interchanges with I-295, and it is the most effective and efficient road for regional circulation and regional travel. He stated making a right turn out of the site to travel north on Stony Hill Road is a movement that he has no concern over, and he believes that movement can be accommodate; and the driveway has been designed, and will be further verified by PennDOT, that the right turn movement can be made to accommodate the turning radius.

Mr. Gruen asked Mr. Williams if he has looked at the bridge on Stony Hill Road that crosses 295, and he asked if he knows the weight capacity of that bridge and is aware of the width of that bridge. Mr. Williams stated he is familiar with the bridge, and there is no posting on the bridge that he is aware of that would restrict it so there should be no restriction. Mr. Gruen asked Mr. Williams if he feels that two tractor-trailers could go by side by side given that it is so narrow, and Mr. Williams stated he believes they can. Mr. Gruen stated he feels that once 295 is finished, and the tolls go in, a lot of the tractor-trailers are going to make the left and try to go through our local roads over that bridge which is "terrible right now even for cars." Mr. Gruen stated the Zoning Hearing Board is being asked to approve something that they do not really know the answers. He stated Mr. Williams is hoping that he will get the right answers or they will try to improve, but there is no proposals on improving the roads in any way.

Mr. McCartney asked if it is commonplace to do a current Traffic Study on a project based on ten-year-old data since the data provided on Page 2 is based on a ten-year-old Traffic Study. Mr. Williams stated the traffic estimates he provided are based on the 2018 Edition of the ITE Manual. Mr. McCartney stated Mr. Williams had referred to a comparison of the daily volume when it was an Office space, and those numbers were based on ten-year-old numbers; however, Mr. Williams stated these are the latest traffic projections based on the Use. He stated it is the 2008 Office Use but based on the current day projections. Mr. McCartney stated when Mr. Williams did the current ones for Warehouse, he assumes he used an "extraordinary assumption" of what type of vehicles would be coming in and out which is why he asked if they know that it will be all tractor-trailers or is it possibility it could be local delivery type vehicles. Mr. Dwyer stated it could be either, and that is something that they will have more information on when they go through the Land Development process. He stated once that gets "locked in," they will change the footprint of the building to accommodate their special needs and go through the Land Development process. Mr. Dwyer stated the Special Exception is just the first step to get to the long Land Development Approval

process. Mr. McCartney stated part of the reason the Zoning Hearing Board is asking about the traffic is because the Ordinance speaks specifically to the Special Exception with respect to probable effects on highway traffic, adequate access arrangements in order to protect major streets and highways from undue congestion and hazard.

Mr. Dwyer this is a PennDOT road, and so they will have to go to PennDOT which is a very long, drawn-out process; and they will require intersection improvements and widening to address the Chairman's concerns. Mr. Dwyer stated they are not suggesting that they are going to put in the warehouse and say "Let's hope it works;" and they are going to have to prove to PennDOT and the Township's consultants through the Land Development process through new traffic counts which are being done right now and analyses, that they do not adversely impact the intersections and do the proper upgrades where necessary. He stated those things are all in the future, but they cannot meet with PennDOT right now without having some support from the Township that they can go forward.

Mr. McCartney stated Mr. Williams had indicated that he had been doing this for twenty years, and he asked him if he has done a project similar to this in the last twenty years. Mr. Williams stated he has been involved in warehouse projects both working for Applicants and reviewing them on behalf of Municipalities. Mr. McCartney asked Mr. Williams has been to the area during the Christmas season on a Friday or Saturday. Ms. Lee also noted fall is busy as well. Mr. Williams stated he personally has not been there during Christmas.

Mr. McCartney suggested to Mr. Williams that he go to the area during those times before he puts his professional certification on the line. Mr. Williams stated he is aware of the traffic conditions during seasonal events. Mr. McCartney asked if he talked to Shady Brook about the number of cars that they experience during those events, and Mr. Williams stated he has not. Mr. McCartney suggested to Mr. Williams that he do that before he signs the Certification to anything. Mr. McCartney stated there can easily be 10,000 cars. Mr. Williams stated he can report on the normal course of business in preparing a Traffic Impact Study, and it was the same process that was following in 2008 with the Office Plan as they look at typical peak conditions. He stated the seasonal events that may occur during Christmas or summer seasonal events are not your typical events. Mr. McCartney stated that is probably ten to fifteen weeks out of the year so he would not consider them seasonal. Mr. Williams stated they are not your typical events, and you typically do not plan or engineer for those atypical events. He stated similar to living in a home with a driveway, when you have a party with a lot of people attending, they park on the street; and that is not a typical event so the driveways are not designed to accommodate

those atypical events. He stated this situation is similar, and the rules they follow that the Township and PennDOT would look for them to follow, and they do a design for typical peak hour – typical rush hour conditions.

Mr. Gruen stated this is not typical since Shady Brook “has a party” every weekend. He stated it is not a private home that has an event a few times a year. He stated they have an event every weekend. He stated last weekend there were 600 to 700 cars there. Mr. McCartney stated he feels it would be “foolish” of Mr. Williams to not take that into consideration since this is not an atypical situation, and it is typical that Shady Brook has 10,000 cars every weekend during the holiday season at that intersection; and it is typical that every Friday night, they have 500 cars at that intersection. Mr. McCartney stated the dedicate Police to Shady Brook to do traffic control. Mr. McCartney stated this is why he asked Mr. Williams if in his twenty years he has worked on a project like this, and Mr. Williams had indicated he had; however, Mr. McCartney stated he is not sure that Mr. Williams understands the enormity of that specific corner which is not typical. Mr. Williams stated he has been involved in projects that experience seasonal events that have spikes in traffic with higher than normal usage. He stated it was indicated that fairly often Shady Brook Farm has Police there to manually regulate traffic during these events, and that is the solution to address those types of conditions. He stated Shady Brook Farm is not able to manage its traffic with normal operations when they have those seasonal events so having a Police Officer there is the solution for those conditions. Mr. Williams stated they are not going to design Stony Hill Road with six lanes and multiple turning lanes to accommodate the fifteen events that Shady Brook Farm has over the course of a year, and the better solution is to design for the typical peak condition which is what has been done; and during those seasonal events a Police Officer would be there to manage to manage the traffic. Mr. Williams stated that if that is the normal protocol, he is very comfortable that the warehouse will fit into the local landscape. Mr. McCartney stated that the fear is that the atypical events Mr. Williams is speaking of are more typical based on the use at Shady Brook Farm.

Mr. Murphy stated that will be evaluated during the course of the Traffic Study. He stated it will have to be dealt with, and the Township is an active participant when they have the pre-Application meeting with PennDOT; and PennDOT will tell them what the scope of the Study will be. Mr. Murphy stated he is confident that the Township will make everyone aware of the seasonal, almost regular events at Shady Brook Farm. Mr. McCartney stated the question is can the Zoning Hearing Board get that Study before they make a ruling. Mr. Murphy stated that is not the way the process works. Mr. Murphy stated the first step in the process is to seek whatever Zoning Approval they need; and in this case because Warehousing and Distribution is listed as a Special Exception, that is why the

Applicant is here. Mr. Murphy stated they are not seeking approval of a Plan. He stated if the Zoning Hearing Board were to approve the Special Exception, it does not mean that the Applicant can build the Plan that is being shown; and all it means is that the Use on the property fits within the Ordinance. Mr. Murphy stated the Applicant still has to do a Land Development Plan. He stated they cannot do it beforehand because they need to have some level of Approval before they can meet with PennDOT because PennDOT does “not want to waste its time” reviewing a Plan for a Use that may never materialize. He stated they need to go to PennDOT with a level of Approval. He stated it is then that they determine the full scope of the Traffic Study will be, and then they will determine what improvements PennDOT and the Township will be required along the Applicant’s frontage and the boundary roads. Mr. Murphy stated it is a “Catch 22” as the Applicant cannot move forward unless they have some Approval from the governing body that they can go PennDOT with. He stated they will then do a full Traffic Study and not just the summary that was provided tonight to give the Board some idea of the differences.

Mr. Gruen stated while they may not have to prepare it for PennDOT, but the obligation of the Zoning Hearing Board is to judge it on the criteria. He stated the Zoning Hearing Board is being asked to give up their obligation and trust PennDOT that they will do their job since the Applicant is not giving the Zoning Hearing Board the information. Mr. Gruen stated they compared everything to 2008, and he asked if the 2008 Plan with all the additional development that has happened since then in that area, would be approved today. Mr. Murphy stated he feels that if that Plan conformed to the current Ordinances the Township would have every obligation to approve it.

Mr. DosSantos asked if the anticipated use of the warehouse mainly a Monday through Friday operation since while Shady Brook does things during the week, many of their events are on the weekend. Mr. DosSantos asked if this is anticipated to be a heavier use during the week as opposed to the weekends; and Mr. Dwyer stated he feels it would be heavier during the week, but that does not mean that there would not be activity there during the weekend as well. Mr. Dwyer stated the property is across the street from Shady Brook which they bought from Shady Brook Farm for an Office. He stated every time they have discussed any use there, it has always been noted that Shady Brook has a holiday event and they should “just go away.” Mr. Dwyer stated the property has been sitting there vacant for over ten years, and the Township has an obligation to allow them to use it for something. He stated this Special Exception is provided for in the Ordinance and in the Comprehensive Plan. He stated they have two professional engineers present this evening advising why they believe this meets the criteria of the Township’s Special Exception. He stated this does not mean that they will have an approval from PennDOT or

from the governing body or the Zoning Hearing Board; but it does mean that they have a legitimate right to a Special Exception and their Traffic Report will bear that out with PennDOT at some time in the future.

Mr. DosSantos asked if the points of ingress and egress could be moved at all even though where they are is where they were approved in 2008 for an Office park environment, and he asked if there has been any discussion or thought about moving them away to take it away from Shady Brook. Mr. Williams stated there is not at this time. Mr. Murphy stated he was at the Planning Commission meeting when that question was asked, and there was some suggestion made by a member of the staff that possibly the right-in, right-out southernmost access point was too close to the intersection; and while he does not know if that is true, they did indicate that all of the access points would have to be evaluated by the Township traffic consultant and PennDOT to determine what the most logical and efficient locations would be if in fact there would be two. He stated possibly there would only be one, and that still needed to be determined. Mr. Murphy stated that is why he stated it is not the Plan that the Zoning Hearing Board is approving, and it is only the Use.

Mr. McCartney asked if they also took into consideration trucks coming off of 295, crossing the ramp, and crossing three lanes to get to the left-turn lane off of the By-Pass to make a left onto Stony Hill Road. Mr. Williams stated he would anticipate that the majority of the traffic is coming from the By-Pass. He stated if you look at the truck patterns today on the By-Pass it is a fifty-fifty split in terms of those going toward 295 versus those that are going toward Newtown. Mr. McCartney stated he was talking about where they were coming from, and Mr. Williams stated it is the same way with regard to where they are coming from. He stated it is a very balanced distribution of trucks. He stated with regard to truck movements from 295 and traveling along the By-Pass, they are not at that level of detail at this point; and that is something that could be evaluated as part of a Traffic Study if necessary. He stated the 295 By-Pass has been there a long time, and the Stony Hill Road intersection with the By-Pass has been there a long time. He stated there are trucks that use the roads today, and they are not introducing anything new or unusual that is not there today. He stated he does not anticipate a need to study the 295 Interchange since it works effectively, and he does not anticipate that this development will change anything at that Interchange.

Mr. McCartney stated Mr. Williams is saying for a warehouse of 125,000 square feet, it will be 976 additional trucks; however, Mr. Williams stated that was total vehicles, and it would be 80 trucks.

Ms. Lee asked if part of the Study will be the additional truck traffic going the “back route.” She stated if it is too crowded coming “up Shady Brook Farm from the By-Pass” and coming around the back way, they may go over the bridge. Mr. Williams stated they will account for traffic that would use the “back way,” but he firmly believes that will be a low percentage of traffic, and unless there is an accident, the overwhelming majority of traffic from this site will be oriented to the north toward the By-Pass. He stated that is borne out by the existing traffic number and where trucks are traveling today, and that is the best indicator that they can use to anticipate the traffic movements for this site. Ms. Lee stated trucks “are going today, but it is not where trucks are ending up if they are ending up at Shady Brook.” Ms. Lee stated the property is right across the street from Shady Brook Farm so if that is the “target – the purpose” she stated she can easily perceive trucks taking a “round-about way” if there is too much traffic at the intersection. Mr. Williams stated that would depend on ultimately where they are headed. Ms. Lee stated if they are headed to the facility or from the facility and there is too much traffic to and from the By-Pass, she is wondering what the Study is going to say or if they have considered the additional traffic through the “heart” of Lower Makefield. Mr. Williams stated they can account for that in the Traffic Study, but his estimate based on how they have looked at it thus far is that it is going to be a lower percentage of truck traffic that would be using that route, and he fully anticipates that most of the trucks are going to go to the By-Pass and go to 295. He stated that is the intent of that road, and it is a high-functioning road, and higher-order roadway; and it has the shortest, most direct route to access 295. He stated from there, there is efficient, regional travel.

Mr. McCartney stated since it is a Special Exception, and it will be warehousing, it seems like the majority of the traffic is going to be trucks; and he asked if they have talked to PennDOT about just doing egress from I-95 on the back part of the property. Mr. Williams stated PennDOT will not allow that as they will not allow a private access.

Ms. Kirk stated when the meeting occurs with PennDOT, PennDOT will direct the designated intersections that should be part of a Traffic Study scope, and Mr. Murphy and Mr. Williams agreed. Ms. Kirk asked Mr. Williams in his professional experience with a project such as the Scudder Falls Bridge project that is undergoing right now, is that something that PennDOT may require that they study the flow of traffic from 295 onto the By-Pass because of the way that the Scudder Falls Bridge project is proceeding; and Mr. Williams stated he does not think so. Ms. Kirk stated the Township will be involved in the meeting with PennDOT, and Mr. Williams agreed that they will if there is a meeting. Mr. Williams added that a lot of times the communication could just be through correspondence; however, whatever the method of communication is, they will copy the Township and include the Township in the correspondence.

Ms. Kirk noted Exhibit A-8, and she asked in the ITE publication is there a different designation for tractor-trailer traffic versus box truck traffic. Mr. Williams stated the data that is available for warehouse does not specify the type of truck so these could be all 18-wheeler, large axel trucks or it could be smaller trucks as well; and it really goes to the user which they do not know at this time. Ms. Kirk stated there is no definition as to a truck. Mr. Williams stated a truck is typically your larger axel trucks – the eighteen-wheeler trucks; however, the specific type of truck traffic for this site is really going to be dictated by the user. Ms. Kirk asked Mr. Williams in the doing the analysis, is it his assumption that regular box trucks are captured in the calculations for vehicle traffic that he has designated; and Mr. Williams agreed. Ms. Kirk stated the numbers that Mr. Williams provided were specifically for tractor-trailer vehicles, and Mr. Williams agreed.

Ms. Kirk asked under the ITE publication what is defined as a weekday morning peak hour, and Mr. Williams stated it is the peak sixty minutes that occurs during the rush hour period which is usually sometime between 7 a.m. and 9 a.m.; but they are looking at the peak sixty minutes. Ms. Kirk asked if there is a specific defined time of that sixty minutes, and Mr. Williams stated it depends on what the existing traffic flows and when traffic is peaking on these roadways. He stated it is typically 7:30 a.m. to 8:30 a.m. Ms. Kirk stated the reason she was asking is because with flex hours and Schools, the peak hours can actually vary depending upon the time of year; and she asked how that will impact the analysis. Mr. Williams stated School schedules and flexible work schedules are a common phenomenon, and that actually tends to soften the peak. He stated before flex work schedules and people tele-commuting that happen today, traditionally everyone commuted to work by car so that there was a high spike with a peak hour in the morning which was a high, defined sixty-minutes or two-hour period of time; however, these other measures are actually softening and spreading out the peak. He stated they are still focusing on the highest sixty minutes in the morning. He stated if that peak period is spreading because of the conditions Ms. Kirk is mentioning “that is fine,” but they will be focusing on the highest sixty minutes when it is the worst in the morning.

Mr. Dwyer state that will come from Mr. Williams’ traffic counts. Mr. Williams stated it will be based on the actual traffic counts; and once the traffic counts are done, they will identify the highest sixty minutes of traffic traveling on the roads today.

Ms. Kirk stated someone will be there from 7 a.m. to 9 a.m. actually counting the number of vehicles, and Mr. Williams agreed.

Ms. Kirk asked what is the afternoon peak hour defined as, and Mr. Williams stated it is the peak, highest sixty minutes, that generally occurs sometimes between 4 p.m. and 6 p.m.

Mr. Gruen asked how long the person doing the traffic counts will be there. He stated when they did the Study for Aria, the person was there one time during the Christmas vacation. Mr. Williams stated they typically will send the traffic counter out to the area, and they pick a typical day. He stated they would avoid holidays and try to avoid Mondays and Fridays, and they try to focus on the Tuesday, Wednesday, Thursday, middle of the week typical conditions. He stated they physically count traffic. He stated there is no need to go back a second day because he has done that, and one day to the next the patterns are very reliable, and they do not see a large fluctuation from one day to the next unless there is something unusual occurring. Mr. Williams stated they do have the benefit of having older data since other studies have been done; and since they have historic data, they can compare any counts that they gather now to the historic data to see if the trends have continued. He stated if they pick a typical day, there is no need to go back out there and count it another day other than the one time in the morning and one time in the evening.

Mr. Gruen stated he would disagree since he does not feel there is a typical day there, and every day there is something different there.

Mr. Gruen stated he recalls during the Aria Hearings that they did a Traffic Study on the exit from 295 into the By-Pass, and there was a big problem. He stated the traffic is backed up there for about a mile and half, and he is sure that it has not gotten any better. Mr. Gruen stated Mr. Williams is suggesting that they do not even need to study that. Mr. Williams stated that is his opinion; however, if they are asked by the Township or PennDOT to study the 295 Interchange, that is something that they would have to do.

Mr. Gruen stated they do not have a tenant yet, and Mr. Dwyer agreed. Mr. Gruen asked if there is any way that they could be assured that they would not put some dangerous materials in there, and Mr. Dwyer agreed they could make that as a Condition. He stated they are not looking to put anything “high hazard” there, and they would consider that as a Condition of Approval. He stated it will be typical eCommerce items.

Mr. McCartney asked the ceiling height of the warehouse, and Mr. Dwyer stated it would be 42'. Mr. McCartney asked if they have been approached by any local sports teams for space, and Mr. Dwyer stated some people have talked to them. Mr. McCartney asked if the Applicant would be introduced in doing that, and Mr. Dwyer stated that would depend. Mr. Dwyer stated they have to get through the Zoning Hearing Board first since this is the first step. Mr. McCartney stated that would change the Plan; and Mr. Dwyer stated while it would, he would not necessarily need a Special Exception for a sports team to be in there. He stated it would not be a warehouse use to have a soccer team in there.

Mr. Dwyer stated with regard to the distribution of the trucks that is something that will be discussed, and Mr. Williams will do a distribution analysis, and the Township traffic engineer or PennDOT may have a different opinion. He stated Mr. Williams will not have the final say on this.

Mr. DosSantos asked Dr. Weiss if the Township has had any discussion about this use. Dr. Weiss stated the Board has not had this on their Agenda; and until they hear from the Zoning Hearing Board, they cannot go further on it.

Mr. Gruen stated it was discussed at the Traffic Advisory Commission, and he received a letter from them which he would like to enter into the Record. He stated there is someone from the Traffic Commission who would like to introduce it.

Mr. Murphy stated the Applicant has not been privy to any reports although they did go to the Planning Commission. Ms. Lee stated the Planning Commission did not issue a report, and Mr. Murphy stated they were deadlocked. Ms. Lee stated it is therefore deemed approved by the Planning Commission since they did not issue a report. Mr. Murphy stated they did just not make a recommendation. Ms. Lee stated it is her "limited understanding" that based upon the Zoning Ordinance, if the Planning Commission does not give the Zoning Hearing Board a report, it is deemed approved. Ms. Lee asked Mr. Flager if her understanding is incorrect.

Mr. Flager stated Section 200-98 indicates the Planning Commission should issue a report, and from the date of the receipt of the Application they have thirty days; and if they do not file a report within thirty days, the Application is deemed approved. Mr. DosSantos asked if that thirty days has passed, and Mr. Flager stated he believes so. Mr. DosSantos so by virtue of our Ordinance, that is an approval from the Planning Commission, and Mr. Flager stated if they have not filed a report from the Planning Commission perspective it is approved. Mr. Gruen stated the Planning Commission is just an advisory board.

Mr. Connors asked what level of PennDOT access Permit they will need to obtain; and Mr. Williams stated based on a Warehouse Use, it is a lower-generating use than the Office Use, and he would estimate that both of the driveways would be classified as a low volume driveway. Mr. Connors stated that would be similar to a School; however, Mr. Williams stated it would depend on the type of the School. He stated what is appropriate for a Warehouse Use because of the uniqueness of the truck traffic is it will be critical to look at the truck turning movements to make sure that the driveways are designed with the proper radius to accommodate truck movements in and out. He stated that is something that PennDOT is going to focus on. He stated the designation of low volume is just a reflection of the traffic generated by the Use, and

this is really considered a low-volume use by those standards. Mr. Williams stated it just speaks to the level of capacity that is needed for the driveway. He stated his estimate is that this is a low-volume use, and these will be low-volume driveways. He stated they will likely look very similar to the driveways that are contemplated on the Office Plan, and maybe some changes would have to be made to accommodate turning movements of the trucks because that would be a little different from the Office Plan potentially.

Mr. Connor asked Mr. Williams to explain what the volume would be if it were the next highest Use. Mr. Williams stated on a daily basis, if it were generating above 1,500 trips per day, that would be a medium volume designation. Mr. Connors asked if that would be a medium-sized shopping center, and Mr. Williams agreed.

Ms. Lee stated what they are indicating would be less than that. Ms. Williams stated their daily estimated traffic is 976. Ms. Lee asked if that 976 includes the 80 tractor-trailers, and Mr. Williams stated it does. Mr. McCartney asked what would be the 976 since Mr. Williams had indicate that there would be 45 employees. Mr. Williams stated the 976 would be over the course of twenty-four hours. Ms. Lee asked if they are projecting shift workers. Mr. Dwyer stated the Applicant has 17 million square feet of warehouse, and he had asked those who do this on the average how many employees would they have, and they estimated it would 42 to 52. He stated this is a very high automated warehouse, and it is not something where there a lot of workers. He stated there is a very low employee ratio.

Mr. McCartney stated Mr. Williams indicated there would be 976 daily trips in and out with 80 of them being tractor-trailers, and he asked what would be the remaining 840; and Mr. Dwyer stated he was giving numbers based on Equus' average number of employees per warehouse, but Mr. Williams is giving them number on an ITE formula which he needs to follow which is why Mr. Williams in this instance may be a little artificially-higher than what he would expect, but he cannot guarantee that they would not have 900 trips there per day. He stated if a different user were to come in five years from now, they would be "stuck with that" and that is why they need to use ITE numbers. Mr. McCartney stated the 976 number is an ITE number and not necessarily what Mr. Dwyer anticipates, and Mr. Dwyer agreed. Mr. Williams stated the number given is typical for a typical ITE Warehouse.

Mr. Connors asked Mr. Williams if that number is based on the 252 parking spaces shown which is based on the one per 500 square feet, and Mr. Williams disagreed. Mr. Williams stated the traffic estimates are based on the size of the warehouse so it is based on a 125,775 square foot warehouse. Mr. Connors stated as far as the analysis goes the number of parking spaces on site is irrelevant to the analysis

and it is totally based on the size, and Mr. Williams agreed. Mr. Williams stated as testified earlier with regard to the parking spaces, they do not anticipate they will need that number of spaces, and those numbers are based on the Ordinance. Mr. Dwyer stated there are three information sources – ITE, the Township Ordinance, and what the owner believes is what the average is for a project like this. Mr. Connors stated Mr. Dwyer had indicated that they do not have an occupant for the property, but based on later statements he indicated this will probably a high-automation facility; and Mr. Dwyer agreed. Mr. Connors stated the expectation would not be to have box trucks, but rather to have full capacity vehicles; however, Mr. Dwyer stated he cannot say that although he will at some point when they design the building to fit the user, and whether that user decides to build or lease it from them. Mr. Dwyer stated if the user would lease the building, sometime in the future that user moves out, someone else would come in and they would still have to follow the Conditions of Approval. He stated if the Board were to require that they cannot have explosives there, he could not bring in a user with explosives; however, they could bring in different types of trucks, employee counts, etc. He stated they will have enough room for 250 cars because that is required by the Ordinance although they hope that they would not have to build them. He stated if the situation changes, they may have a user that is more labor intensive which would require more parking spaces, they would build them. Mr. Dwyer stated this is a project that will change and evolve over many years unless Amazon buys it and keeps it for whatever they decide to use it for.

Mr. Connors stated based on his experience with the other facilities, he is expecting to only have fifty employees on site; and Mr. Dwyer stated based on the averages, they would expect between 42 and 52, but his is not committing at this point that there will be 42. Mr. Connors asked if it is his expectation to only build 50 spaces with a 20% surplus; and Mr. Dwyer stated before they go through the Land Development process, they will have a tenant locked in, and they will be asking them all of those details. He stated they might indicate that they need parking for 100 cars, and they would come in front of the Planning Commission and Board of Supervisors and testify as to what they think they need. He stated the Board will probably make them escrow for and design for a large parking lot, but hopefully they can build something less; however, he cannot guarantee that, and they are not looking for that relief. Mr. Connors stated he is just trying to understand how the shipping industry is growing and morphing as it used to be high, labor intensive, and now it is not so much. He stated he is just trying to understand from Mr. Dwyer's perspective what is his expectation of the property now and in the next ten to twenty years.

Mr. Gruen stated he would like to hear from the representative of the Traffic Commission.

Mr. McCartney asked that the Applicants be provided a copy of that letter which was provided.

Ms. Sue Herman was sworn in and stated she is a member of the Lower Makefield Township Citizens Traffic Commission. She read into the Record the letter from the Citizens Traffic Commission on behalf of Virginia Torbert, their Chair, who could not attend the meeting this evening. She stated the letter is dated April 15, 2019 Reference Appeal #19-1826 – Shady Brook Investor, L.P. Tax Parcels #20-016-039, #20-012-001-003, #20-012-002-002 intersection of Stony Hill Rod and Township Line Road, Yardley, PA 19067.

She read as follows:

Dear Mr. Majewski: The Citizens Traffic Commission opposes the granting of a Special Exception for the proposed warehouse on these parcels (formerly Capstone Terrace.)

Since our 2008 report to the Board of Supervisors, which was titled “Traffic Safety, Traffic Flow Issues in Lower Makefield Township,” we have identified the area from the Newtown Interchange with I-295 through the intersection of the Newtown By-Pass with Stony Hill road as a high accident, heavily congested corridor in need of major improvements. Other than better coordination of traffic lights on the Bypass, no major improvements have been made here and congestion has only gotten worse.

To introduce an additional almost 1,000 trips per day, many of which will likely be trucks and tractor-trailers would exacerbate an already bad situation. It would require major widening of the By-Pass, adding additional turning lane, and even widening of the southbound I-295 Exit ramp.

In addition, the traffic generated by such a large warehouse operating 24/7, would put added pressure on local roads such as Township Line, Big Oak, Stony Hill, and others depending on where the additional traffic is coming from. Once the Scudder Falls Bridge begins tolling the lanes from New Jersey into Pennsylvania, high tolls for trucks and tractor-trailers would likely cause diversion to other local roads such as River Road, Yardley-Morrisville Road, Edgewood Road, etc.

As noted in the current Comprehensive Plan Update, it is important to link land use with transportation: “Inappropriate land uses coupled with inadequate transportation services create congestion and traffic impacts on both highways and local roads.” This is a textbook example of an inappropriate land use.

Mr. Murphy asked Ms. Herman if she is a member of the Commission, and Ms. Herman stated she is a member of the Citizens Traffic Commission. Mr. Murphy asked Ms. Herman if before they did this letter did they consult with the Lower Makefield Township traffic consultant; and Ms. Herman stated they did not on this particular project, although they have talked to him over the years many times. Mr. Murphy stated they did not consult with the Township’s appointed traffic consultant before they wrote this, and Ms. Herman stated that is correct since the Commission met about it last night and the traffic consultant was not there last night. Mr. Murphy stated there is no traffic engineer sitting on the Traffic Commission, and Ms. Herman agreed adding that this is their personal opinion. Mr. Murphy asked Ms. Herman if she has copies of the accident reports for this area from the Police Department, and asked if they consulted with the Police Department. Ms. Herman stated they get accident reports monthly for this area, and the report which they wrote back in 2008 was based on accident reports from the Township. Mr. Murphy stated it is now eleven years later, and Ms. Herman stated they believe that it has only worsened; and while they review the accident reports monthly, they have not done an extensive comparison of the intersection to other intersections. Mr. Murphy asked for the corridor that she has labeled, does she have copies of the accident reports that the Police Department has compiled for that specific corridor – the Interchange through Newtown By-Pass, and Stony Hill Road; and Ms. Herman stated monthly they get their accident reports throughout the Township, and they review what is happening at that intersection monthly.

Mr. DosSantos asked Mr. Flager if this letter would be considered an advisory report from the Planning Commission pursuant to Ordinance 200-90, and Mr. Flager stated it is not from the Planning Commission – it is from the Citizens Traffic Commission.

Mr. Connors asked Mr. Williams if he were to perform a Traffic Study would he have accident reports in the Study, and Mr. Williams stated they would.

Mr. Zachary Rubin, 1661 Covington Road, Affirmed to tell the truth. Mr. Rubin asked Mr. Williams if in the 2008 McMann Study did they rate the intersection of Stony Hill and the By-Pass using the A, B, C, D, F rating system. Mr. Williams stated his office

did not prepare that Study in 2008, and it was noted Pennoni Associates prepared that Study. Mr. Rubin stated he spoke in front of the Planning Commission, and there is no question that they did not Approve this Applicant.

Mr. Rubin stated they can talk about the technicality of the thirty days, but there was no consensus to approve this. Mr. Rubin stated he and Irene Kohler and a number of other people were involved with the Residents Against Frankford Hospital for eight years, and they fought the Hospital which was across the street from this Lot. He stated Shady Brook was Zoned O/R, and they were seeking a Special Exception for a Hospital so it was a very similar situation. He stated RFR, at their own expense hired traffic engineers, and our current Director of Planning was also involved in some of the Testimony; and they proved in front of the Zoning Hearing Board that there were failing intersections at 332 and Stony Hill, and also the exit off I-95 south which is 295 west exiting onto the By-Pass. He stated the Zoning Hearing Board Denied that Application. Mr. Rubin states subsequently Aria Hospital did Appeal that Decision to the Common Pleas Court, and there was a brokered Settlement.

Mr. Rubin stated in our Special Exception Applications 3B states that the proposed location is suitable with respect to adequate access arrangements in order to protect major streets and highways from undue congestion and hazard. Mr. Rubin stated while he does not know about PennDOT's rating, and that when they do Traffic Studies they do not use the word "undue," but he feels it is incumbent upon the Zoning Hearing Board to interpret what is the best interest of the public safety of our community to discuss what is undue congestion and hazard. He stated he thinks that is subjective, and he thinks it is their "bailiwick" that they should make that statement that there is undue congestion. Mr. Rubin stated everybody in this room who has exited I-95 or 295 west coming from the Scudder Falls Bridge around the afternoon rush hour when they are trying to exit to go to Newtown on 332 at that intersection, it is backed up onto 295. He stated it is a dangerous situation as of now, and if they put one more tractor-trailer there, that is "unbelievable" and should be Denied. He stated the Zoning Hearing Board can determine what is undue congestion and not leave it up to PennDOT.

Mr. Rubin stated according to our Special Exception B it says that the Zoning Hearing Board may impose whatever Conditions regarding layout, circulation, performance that it deems necessary to insure that any proposed development will secure substantially the objective of this Chapter. Mr. Rubin asked Mr. Flager if the Zoning Hearing Board determines that there is undue congestion on the back

up of 295, can the Board direct the Applicant to reconfigure that whole intersection of 295 west going to the By-Pass. He asked if they could put five or six exit lanes, and can the Board order them to reconfigure that intersection because according to our Ordinance, the Zoning Hearing Board can order them to do anything to alleviate undue congestion.

Mr. Flager stated it is a PennDOT road it is not the developer's property. He stated he believes the lay out is referring to the lay out of the actual property that they are developing. Mr. Rubin asked Mr. Flager if it is his interpretation that the developer does not have to do any improvements at the intersection of Stony Hill and 332; and Mr. Flager stated his interpretation is that this Board cannot mandate a PennDOT operated road and tell the Application what they have to do on a road that is operated by PennDOT as PennDOT would have the final say on that. Mr. Rubin asked Mr. Flager if he is saying that our Ordinance only talks about locally-controlled roads.

Mr. DosSantos stated he feels the Ordinance speaks to the design of the property itself. Mr. Rubin stated the Chapter is what constitutes a Special Exception, and what constitutes a Special Exception is that it cannot produce undue congestion on the roads, and that is what it is referring to. Mr. DosSantos stated it talks about imposing Conditions regarding layout, circulation, and performance; and he would suggest that layout, circulation, and performance have to do with the Plan that is under the control of the Applicant.

Mr. Flager stated as the Applicant testified to, when it gets to Land Development, and they are doing Traffic Studies, PennDOT can impose certain restrictions and requirements; but the Zoning Hearing Board cannot tell them that they have to change intersections that are not under their control. Mr. Rubin asked Mr. Flager if it is his professional opinion that the Zoning Hearing Board can determine what "undue congestion" means, and "what is the best interest of our community" since that is what the Zoning Hearing Board is there for – to protect us, and that is what our Ordinances are there for – to protect the health and safety of our community. He asked Mr. Flager if the Zoning Hearing Board can determine "undue congestion." Mr. Flager stated prior to Sub Section B, the Conditions that are under A-3, A through F, those are Conditions that the Board is required to consider, one of them being "undue congestion and hazard" which is 3B. Mr. Rubin stated they can therefore determine that, and Mr. Flager stated that is one of the elements that they have to consider.

Mr. Michael Donahue, 1290 Fountain, was sworn in.

Mr. Flager stated anyone wishing to speak should give their name and address and also formally state whether they want Party Status. He stated Party Status gives you certain rights for Notice and the ability to challenge the Decision of the Board. He stated they should also state whether they are opposed to the Application or not so they have that for the Record.

Mr. Flager asked Mr. Rubin if he would like Party Status and whether he is formally opposing the Application. Mr. Rubin stated he is opposing the Application, but he does not believe he lives close enough to this project to get Standing. He stated he believes there are people in the audience who live closer to the project that would have Standing.

Mr. Gruen stated this project is effecting the entire neighborhood, and it is not just a next-door-neighbor as the traffic will affect the entire neighborhood. Mr. Rubin stated he would therefore change his position and request Party Status.

Mr. Murphy Objected. He stated Mr. Rubin should not be given Party Status because he is not a person aggrieved. Mr. Murphy stated Notice was sent out to all property owners within 300' of this property, and Mr. Rubin does not live within 300' of this property; and he does not have any direct, immediate, impact of this project on him or his residence. He stated because of that he does not have the requisite person aggrieved status to qualify for Standing. He stated he would Object to Mr. Rubin and to anyone else who does not live within 300' for all of those same reasons.

Mr. Gruen stated there is then only two people who possibly could Object. He stated when they did Aria there was a whole citizens group who lives a mile away who had Party Status, and they did not live next to it. Mr. Murphy stated that lawyer should have Objected to them too. Mr. Murphy stated the law is clear that just because you are a citizens group does not mean that you are entitled to Party Status because you are not a person aggrieved. Mr. Gruen asked if that is true even if it affects you. Mr. Murphy stated that is correct; and unless there is a direct and immediate impact of this project on them personally.

Ms. Lee stated she would like to ask our solicitor about this, and Mr. Flager stated Mr. Murphy is correct. He stated he has the list and it is Shady Brook and some other corporations. Ms. Lee stated she is not talking about that, and she is talking about whether or not Mr. Rubin can obtain Party Status or not. Mr. Flager stated as has been the practice, generally to get Party Status you have to part of the list that gets Notice; and Mr. Rubin was not on the list. Ms. Lee stated there are only corporations on the list, and Mr. Flager stated they could be officers of that corporation.

Mr. Flager stated while Mr. Rubin cannot have Party Status, he can make general comments.

It was noted that Mr. Michael Donahue would also not have Party Status.

Mr. Donahue stated he received a flyer, and he asked if “that matters,” and it was noted that it does not.

Mr. Donahue stated Mr. Murphy indicated that this was “neither special nor an exception,” but the Ordinance says “Special Exception.” Mr. Donahue stated “there was something about fourteen acres versus twenty-five acres” so that is the issue; however, Mr. Donahue was advised that is not the issue. Mr. Donahue asked “what is the twenty-five-acre problem.” Mr. Murphy stated for the Office Research Zoning District in order to comply with the Ordinance, you would typically need a twenty-five-acre Lot; but since this Lot was established years ago and it only have fourteen point eight acres, it is legally non-conforming. He stated because of that status, the Applicant does not have to meet the twenty-five acre minimum requirement. Mr. Murphy stated that is not the Special Exception, and the Special Exception is the use as a warehouse.

Mr. Donahue stated a statement was made earlier that eCommerce was not anticipated; however, those who put this “great regulation and saw the beautiful Township that we live in” saw something like that when they put a warehouse exemption in. He stated maybe they were not concerned about Amazon, but they could have been concerned about “Sears catalogue,” and it could have been any kind of distribution center that they were concerned about. He stated he does not feel the comment that eCommerce was not anticipated is “even meaningful or relevant.” Mr. Donahue stated there is a “way of fixing this,” and they could buy eleven more acres. Mr. Gruen stated they are non-conforming.

Mr. Donahue stated the “traffic person” mentioned that most of the trucks are going north toward the Newtown By-Pass; and Mr. Williams stated that was his estimate, but they have not yet completed a Traffic Study. Mr. Donahue asked if every truck that goes north also have to come south on Stony Hill to “get into it,” and Mr. Williams agreed. Mr. Donahue stated there are a lot of lefts by “big trucks” going into this distribution facility; and Mr. Williams stated he anticipates that the predominant traffic patter to and from the site would be exiting, turning right traveling north on Stony Hill Road toward the By-Pass, and then entering from the By-Pass coming south on Stony Hill Road turning left into the project. Mr. Donahue asked if they would not be equal, and he asked why would one be more than the other.

Mr. Williams stated they would be equal. Mr. Donahue asked why is most of the traffic north, and Mr. Williams stated it is both trips – the arrival trips and the departure trips. Mr. Donahue stated the hard left into the distribution facility will be just as much as the northern trips of the trucks, and there will be “just as many entrances” going left into the distribution facility as making a right from the distribution facility; and Mr. Williams agreed.

Mr. Donahue stated they take the highest sixty minutes, and from a scale of one to ten it could be a ten; and he asked what would happen if the other sixty minutes after that are a nine, would that make it less relevant and he asked if that should not be part of the Study as well. Mr. Williams stated they are modeling traffic conditions when it is a ten – when it is the worst – so that although the hour before or after might be an eight or nine using Mr. Donahue’s terms, if the Applicant has properly demonstrated that they can accommodate traffic when it is at its worst, then it would stand to reason that it would be the same or better during the other times of the day when the traffic is less.

Mr. Donahue asked Mr. Dwyer what are the Leases like. He asked if they are in charge of the facility or is it a “net Lease where they take care of the property, or does the owner take care of the property,” and he asked “how does that work.” Mr. Dwyer stated it would depend on the facility and the tenant. He stated they could also sell it to someone. He stated is not sure what the plans would be, what the Lease would be, and he is not prepared to state what it will be. Mr. Donahue asked of the 17 million square feet of warehouse they have, how much of that is controlled by the owner; and Mr. Dwyer stated he does not know the answer to the question as he is not the owner, he is the owner’s rep.

Mr. Morris Fine, 18 Shady Brook Drive, was sworn in. Mr. Fine stated his concerns have to do with environmental quality, which has to do with noise and air pollution. He asked what happens where you have forty-five trucks in a bay idling. Mr. Gruen stated idling is against the law to idle for more than ten or twenty minutes while you are not parked. He stated although he is not sure of the law, there are regulations about diesel vehicles idling. Mr. Fine asked who would enforce those regulations. Mr. Gruen stated it would be the Township Police. Mr. Fine asked if the Department of Environmental Protection have any jurisdiction over this kind of site. Mr. Gruen stated the question before the Board is whether they should allow the Special Exception. He stated he is not sure if the Environmental Commission would be in charge of that, although he does not think so. Mr. Fine stated his question is at what point would the Department of Environmental Protection “come to play” in this process. Mr. Garton stated a warehouse use would not require a DEP approve for the use itself. He stated they would need to get DEP approval for stormwater discharge, but that

would be whether it was a warehouse, office, super market, or any other type of use that was disturbing more than one acres of land. Mr. Fine asked if there would not be any requirement under an "environmental impact statute," with DEP; and Mr. Garton stated a warehouse user would not need an Air Quality Permit or anything since they are not doing processing. Mr. Fine stated he is not talking about a Permit, and he is talking about an Approval. Mr. Garton stated a Permit would be the DEP approval. Mr. Fine stated he is talking about an evaluation of the environmental impact of this facility on the surrounding area. Mr. Garton stated the Township Ordinance does require an environmental report be done, and they did one for the Office. He stated if they get to Land Development, they would have to do a new environmental report for the warehouse use; but it would not involve the DEP.

Mr. Fine asked if the Zoning Hearing Board gives an approval, the residents in this area would "be powerless at that point" to take any additional action in terms of any further decisions made in the process. Dr. Weiss stated he is the Township Liaison. He stated in his opinion the Zoning Hearing Board will determine whether a warehouse is an appropriate use under the Special Exception for this property. He stated it is his understanding that if the Zoning Hearing Board approves the Special Exception, the developer will then start the process of developing a warehouse or with the owner's consent may decide to go in a completely different direction. Dr. Weiss stated the Township will look at what is happening on adjacent properties. He stated there is a new Comprehensive Plan coming out in the next few weeks and the Board may decide to pass an Ordinance changing the status of this property. He stated he is "looking at hypotheticals, and this is something that would happen once the Zoning Hearing Board acts." Dr. Weiss stated there are Ordinances as far as idling trucks, and Ordinance as to where they put the stormwater management. He stated there are also Ordinances of "how big, how high" the warehouse would be. Dr. Weiss stated this is the process that the community would be involved with in future steps. He stated from what he understands what the Zoning Hearing Board is going to do today will only determine if what Equus wants to do is appropriate for this land.

Mr. Gruen asked Mr. Flager to explain to the audience what the Party Status is. Mr. Gruen stated anyone with Party Status can Object to the Zoning Hearing Board Decision and take it to Court, and that is why they ask about Party Status. Mr. Gruen also asked Mr. Flager to explain to everyone what a Special Exception means. Mr. Flager stated when Mr. Murphy indicated that the Special Exception is neither special nor an exception, that was based on the fact that the Special Exception is still considered a Permitted Use under the Zoning Code. He stated there are three things you will see in almost every Zoning Code – one is a Use as of right which means you do not need permission provided you are complying with all the other rules, regulations, and Ordinances. He stated you would not have to come before the Zoning Hearing Board or before the Board of

Supervisors. He stated you also have the Special Exception which requires you to come to the Zoning Hearing Board to get approval. He stated it is still considered a Permitted Use, but there is an added step that you need the approval from the Zoning Hearing Board which can then impose additional Conditions or restrictions; however, it is a Permitted Use. He stated the last would be a Conditional Use which would go in front of the Board of Supervisors; and they could make the determination with any conditions that they felt appropriate, but it is considered a Permitted Use, and it is not something that is not allowed in the Township or not allowed in this area or Zoning District.

Mr. Flager stated what is before the Zoning Hearing Board tonight is the ability to operate a warehouse on this piece of property, and that is a Special Exception which is why they are here. He stated all of the logistics as far as traffic, etc. as Mr. Williams and others have stated will have to go through the Land Development process which is something done with the Township engineer, Township solicitor, and going in front of the Board of Supervisors. Mr. Flager stated the Applicant still has to go through that. He stated tonight just allows them to go to those next steps. He stated they are still going to have to have Traffic Studies, and they will still have to work with PennDOT and do a lot of things; and this is not something that happens immediately following the meeting tonight. He stated this is the beginning of the process, and that is what Mr. Murphy was stating that they need this approval so that then can go to PennDOT and work with the Township on all of the issues as far as stormwater management, traffic impact, and all of the other things that come up with a regular Land Development process. Mr. Flager stated that is an overview of the limited issue they are here for.

Mr. Flager stated with regard to Party Status, as he stated earlier, it is only for those people who received formal Notice, which seems to be mostly Corporations; and that allows someone to challenge this in Court if the Zoning Hearing Board voted in a way they did not agree with.

Mr. Joseph Gioconda, 26 Autumn Drive, was sworn in and stated he lives approximately one mile from the proposed warehouse. He stated he is an attorney licensed to practice in New York and Pennsylvania. He stated he has particularly relevant factual information because in addition to being an attorney, he also owns several businesses that make use of warehousing space particularly for fulfillment of orders for retailers, wholesale shipments, as well as eCommerce fulfillment. He stated because he has become familiar in his practice both as an attorney and as a business owner with warehousing and the evolution of warehousing over the past several years, he “vehemently” opposes this proposed use because he has become familiar with how warehousing now works in a way that is very different from people’s understanding of how warehousing used to work. He stated it is now a 24/7 facility in order to become profitable as the

“owner has admitted under oath;” and while he mentioned that they are not contemplating eCommerce fulfillment in the immediate future for tenancy, his experience is that all warehousing is becoming eCommerce fulfillment specific.

Mr. Gioconda stated large retailers such as Walmart, Sam’s Club, BJ’s, Target, etc. are moving more and more toward an Amazon model so that they are expecting their fulfillment centers and warehouses to be automated and 24/7. Mr. Gioconda stated as a practical matter that means that you have tractor-trailer trucks making rounds to drop off and pick up both less than full truck load and full truck load deliveries and picks ups 24/7, 365 because they “are not beholden to” a normal business schedule, and they have their own schedule in order to be profitable.

Mr. Gioconda stated eCommerce is quickly becoming a large drop off by the eighteen wheelers that drop off full truck load or less than truck load that gets stocked in the warehouse. He stated you will also see smaller trucks pull up for the last-mile type delivery, and they are stringers that come in and do Amazon’s last mile fulfillment. He stated toward Langhorne you will see cars lined up waiting for their order/pick up, and these are small cars and box trucks, and sometimes there are people in small cars working part time; and they get a package and deliver it to your house. He stated that is how Amazon fulfills its two-day Prime, which is now becoming the standard in the industry.

Mr. Gioconda stated warehouses have become a “blight,” and they are not something that residential communities want close to places like Schools. He stated Shady Brook Farms has thousands of children including his own playing in the field immediately adjacent to this facility and picking Easter eggs, and to imagine eighteen wheelers and stringers going around the clock across the street is “unfathomable.” He stated he cannot seek Party Status under the Statute, and he will not do so to prevent the Objection of his colleague; however, he stated his expertise in this field should advise the Board and the community that this is not the right place for it. He stated the owner apparently has plenty of opportunities to develop his business elsewhere and put warehouses that are fully profitable in places that are not going to impact a Residential community.

Mr. McCartney asked Mr. Gioconda if the stringer trucks he is speaking about are the same trucks that they see on a daily basis in the morning at the gas station across from Kohl’s. Mr. Gioconda stated this is a fairly new phenomena, and what happened in his experience, is that Amazon has been outsourcing more and more of its deliveries as they try to fight competition between the U. S. Postal Service, UPS, etc.; and they now allow individuals to set up a company with certain minimal insurance to do deliveries, and they get paid by the parcel. He stated they line up and wait for

Amazon to call them in, and they pick up the parcel and deliver it. He stated these are people who are not from the community. He stated while he will not comment on the types of people who do this, they “hang around in parking lots” looking for “this type of hourly gig.” Mr. McCartney asked if these are the trucks that are also occupying the Oxford Valley Mall parking lot across from the AMC, and Mr. Gioconda stated he is seeing them more and more down there.

Mr. Gioconda stated he does not feel that the Applicant’s traffic engineer talked about this at all, and his analysis was looking at employee traffic and delivery traffic; and he was not looking at traffic of stringers who are neither employer nor agents, and they are independent distributors who work for Amazon. Mr. Gioconda stated he expects that this will be an eCommerce-type business. He stated theoretically they could rent the warehouse to a pharmaceutical company or something like that, but that is not where the warehousing money is; and it is more and more “temp warehousing,” eCommerce fulfillment-type warehousing, etc. He stated the owner did Testify that he cannot “bind” the Board or the property as to who the tenant would ultimately would be so that there is a very good chance that it would ultimately end up being an Amazon or a logistics company that works with Amazon or some other eCommerce entity.

Mr. Frank Falco, 39 Shady Brook Drive, was sworn in. Mr. Falco stated he is a “little bit of an expert” in terms of warehousing in the sense that on a daily basis his current job takes him to industrial centers and warehouses including the ones that distribute for eCommerce. Mr. Falco stated if this were to turn into a warehouse similar to the one on Cabot Boulevard in Langhorne where the stringers park in Oxford Valley, it will change the Traffic Study that the engineer did in terms of peak hours because the peak is constant; and there are trucks in and out all day long. He stated the only peak that would be applicable would be the warehouse workers because they come in at a certain time in shifts, but the trucks are in and out all day long. Mr. Falco stated if it turns out to be a facility where tractor-trailers are employed, they will have to look at it from the perspective that it is not just at the bays since every warehouse he goes to in addition to any tractor-trailers that are backed up against a loading dock, there are also other tractor-trailers in the warehouse parking lots assuming that there is space for them. He stated one of the reasons for this is that there is a National mandate for electronic log-in devices that went into effect last December; and because of that there is a strict adherence to hours of service so that now when you have a warehouse, you will always see tractor-trailers in proximity to the warehouses and even on the lots as the drivers who may pull up and drop off their load may have to spend a couple more hours before they can legally go back on the road.

Mr. Falco stated with regard to eCommerce, there is a tendency to have security gates with a guard; and because of that there is always a long line of tractor- trailers waiting to get into the larger warehouses. Mr. Falco stated while they do not yet know who the tenant may be, these are all things that the Board should consider if this does move forward.

Mr. Lou Merlini stated he represents the owners of LMTC South Acquisitions, and he was sworn in. Mr. Merlini stated he is requesting Party Status going forward.

Mr. Gruen asked what is the entity, and Mr. Merlini stated they own Lower Makefield Corporate Center South – 770 Township Line Road, 790 Township Line Road, and 800 Township Line Road.

Mr. Vincent Ranieri, 1310 N. Bradford Road, was sworn in. Mr. Ranieri stated he cannot declare Party Status, but he does Object for the warehouse going into this location. Mr. Ranieri stated he feels they would have been better off putting in a nice Office complex, and he is not sure why that did not “pass.” He asked why the Office Park did not get approval. Mr. McCartney stated Mr. Murphy had indicated that it did get approval, but it was not developed.

Mr. Dwyer stated they used to own the Lower Makefield Corporate Center both the north and south years ago. He stated he approached the Township In 2012 to try to do something with the O/R District because they had 180,000 square feet of Office that was fully approved, but they could not find anyone after ten years to look into it, and no one wanted to be in a Suburban Corporate Center. He stated their vacancy rate was increasing dramatically at the Corporate Center, and the values were going down. Mr. Dwyer stated they have been marketing this 180,000 square feet of Office since 2008, and no one is interested; and the “market is dead.” Mr. Dwyer stated Suburban Office space is no longer worth what it used to be. He stated he Township has the ability to turn that around if Edgewood Village were to become “someplace special” where someone could go to for lunch, if there were liquor licenses, etc. which would help improve the conditions around the Corporate Center and an Office building. Mr. Dwyer stated he does not believe they would be able to find a tenant for the Office building for another thirty years.

Mr. Dwyer stated the owner has decided that if they cannot use it for an Office, they need to find some other use for it. He stated since that timeframe eCommerce has turned around and has become more viable, and they are now proposing eCommerce. He stated they would love to do an Office but nobody wants it.

Mr. Ranieri stated during the holiday period which is eight weeks of the year or 15.4% of the year, the traffic here is “crazy.” Mr. Ranieri asked Mr. Williams if he would not consider that a high volume time to do a study. Mr. Williams stated without a better understanding of the specifics, he cannot offer an opinion. Mr. Ranieri stated they are asking for a Special Exception, and he asked the Zoning Hearing Board that a special survey done during the time of highest traffic time during the year which would be between Thanksgiving and Christmas, because he feels they would fail.

Mr. Ranieri asked if anyone knows what the acceleration speed is for an eighteen wheeler truck coming up the 295 off ramp at 332 to make it across three lanes of traffic to make the left-hand turn to get onto Shady Brook. Mr. McCartney stated it is probably similar to the one coming off Route 1 trying to make a left on Cabot Boulevard at L.A. Fitness. Mr. Ranieri stated they are going to be seeing too much traffic, and there is going to be gridlock. He stated it is a safety concern, and his Objection is for safety. He stated there will be too much volume for our infrastructure to handle.

Mr. Ranieri stated he feels the Planning Commission failed the residents; and even if they were deadlocked, they did not file a report thus the Applicant got their first Approval. Mr. Ranieri stated he hopes the “Zoning Commission” does a better job.

Ms. Lee stated they are not a Commission. She stated they are a Hearing Board, and they are quasi-Judicial. She stated they are not advisory; and they hear evidence, and then make a decision based upon the evidence presented and the law as it exists. She stated they cannot go with emotion, and they can only go with facts and what the law is. She stated they cannot deny a property owner certain things if they are entitled to it. She stated their job is to listen to both sides, the evidence presented, and make a decision based upon the law. She stated the Zoning Hearing Board is very different from the Planning Commission.

Ms. Lee stated she understands that there are about 1,000 extra vehicles and estimate 80 additional daily tractor-trailers, but what she does not have is a comparison as to what percentage increase that is over current traffic. Ms. Lee stated that it is obvious that there is already a congestion problem, but she does not have what effect this warehouse will have on an existing problem. She asked if it will be 1%, 10%, or 50% additional. Mr. Williams stated he did look at that preliminarily, and they can verify this as they move to the Traffic Study; however, based on data that is available, this Use which is significantly less traffic than the Office Use, it will be about a 1% to 2% increase in traffic as it currently stands.

Ms. Lee stated the effect of one tractor-trailer is different from one car, and she asked Mr. Williams if he has an opinion as to the 1% to 2% difference with the additional 80 tractor-trailers daily. Mr. Williams stated he does not at this time have an opinion based on any completed studies, but that will be a later step in the process. Mr. Williams stated he could speculate; however, Ms. Lee stated she would not want him to speculate.

Mr. Williams stated with regard to the question about the estimated percentage increase in traffic over current conditions, the numbers he is giving are estimates as he does not have the data with him; however, looking at the traffic on the By-Pass, which is a very high-volume road, on the By-Pass they are looking at about a 1% to 2% increase in traffic. He stated on Stony Hill Road right in front of the site, it would be more of a percentage increase, and it would probably be 5% or less, and they will verify those numbers. He stated everything they are looking at for this Warehouse Use is probably half or less than what would have been experienced with an Office Use. Ms. Lee stated she is concerned about the amount of tractor-trailers and the effect of that.

Ms. Lee stated she understands that the Traffic Study was not yet done because there are steps to the process; but she asked what controls the Township would have if the Zoning Hearing Board were to grant the Special Exception. She stated she understands that the Township would be included on conversations with PennDOT; however, if the Traffic Study comes back, and there is a 25% increase, that would be too much, and she asked if the Township has the ability to stop it at that point.

Mr. Murphy stated he understands that the Board has concerns about the traffic, and he asked if it would be meaningful to the Zoning Hearing Board if they could get Mr. Williams to expand what he has done although it would not include PennDOT participation. Mr. Murphy stated Mr. Williams could do more to fill in some of the gaps that have been asked about, and he could expand the scope of his analysis to include some of the relevant intersections and some other information. He stated if the Board felt that would be meaningful, the Applicant could Continue the Hearing tonight and also have the Township traffic's consultant look at it. A number of Board members stated they felt it would be meaningful.

Mr. Gruen stated there was discussion by residents about eCommerce, and the Applicant's engineer was only counting tractor-trailers coming in and making deliveries to the warehouse; however, if it is an eCommerce distribution center, there could be fifty to seventy additional trucks "running around all day long," and there is no assurance that will not happen because they do not know who the tenant will be.

Mr. McCartney asked Mr. Williams if the ITE numbers are based on eCommerce; and Mr. Williams stated they do not specify eCommerce, and it just high cube warehouse - the definition that he had previously cited. Mr. Murphy asked Mr. Williams to describe where the numbers come from. Mr. Williams stated ITE develops trip-generation estimates for a wide variety of Land Uses of which warehousing is one. He stated the data that he is quoting is based on actual counts of actual other high cube warehouse facilities. He stated these are his estimates for a warehouse of this size, but it is all based on actual data and actual counts of other similar high cube warehouse facilities in different parts of the Country. Mr. Williams stated the focus of the discussion this evening is that there are variations and specific tenants may dictate different traffic patterns, but they do not know the tenant at this point so the only information they have to use is the ITE data, which is what he is required to do, and is also what the Township's traffic engineer and PennDOT will want to see.

Mr. DosSantos asked if there is data available for an eCommerce-type warehouse, and Mr. Williams stated that is not specifically called out. Mr. Williams stated the description and type of use is more about the method of storage and the method of operation. He stated it could be an eCommerce facility or it could be something else. Mr. DosSantos stated he understands it is not in the ITE; however, he asked if there are other resources he has as a traffic engineer that may provide that information, and Mr. Williams stated he could look into that and also consult with the Township's traffic engineer.

Mr. Gruen stated they indicated that this is rated as low-volume traffic; however, if it becomes eCommerce, it is no longer low-volume traffic; and he asked if PennDOT has a distinction between an eCommerce warehouse and a regular warehouse. Mr. Williams stated PennDOT does not get involved in the land use, and they are just interested in the amount of traffic that has been estimated as part of the Traffic Study, and the classification of low-volume, medium-volume, high-volume is based on the number of trips being generated by the facility. Mr. Williams stated he is using data from ITE, which is the best and really only available data; and it is the data that all traffic engineers use, but he will speak to the Township's traffic engineer as well to see if there is some other resource that better captures eCommerce even though they do not know that this will be an eCommerce facility.

Mr. Gruen stated he feels what Mr. Murphy has suggested is good.

Mr. McCartney stated Dr. Weiss indicated that the Board of Supervisors was going to be reviewing the Comprehensive Plan, and Dr. Weiss stated it will probably be coming from the County in the next two weeks. Mr. McCartney stated what he is reading about the Special Exception is that the use should meet all specific provisions and

criteria contained in the Chapter and the provisions. Mr. McCartney stated they do not know that the proposed use will be in accordance with the spirit, purpose, and intent of the Comprehensive Plan yet. Dr. Weiss stated from what he understands, the the Comprehensive Master Plan that is coming to the Board of Supervisors from the County will not change the Zoning or the prospective uses for this land so he does not feel that is an issue. Mr. McCartney asked Dr. Weiss if it is the opinion of the Board of Supervisors that the proposed use is in accordance with spirit, purpose, and intent of the Comprehensive Plan and in conformance with all the applicable requirements; however, Dr. Weiss stated he does not want to say that because it is the Zoning Hearing Board's duty to determine whether this falls under the Special Exception.

Mr. Murphy stated it is as of the date the Application is filed.

Dr. Weiss stated once the Zoning Hearing Board renders a Decision, then it is up to the Board of Supervisors to work with the developer to insure that whatever goes there will be "finally acceptable for everybody."

Mr. McCartney stated the proposed use for Dr. Weiss is in accordance with the spirit, purpose, and intent of the current Comprehensive Plan. Ms. Kirk stated the Comprehensive Plan that is subject to the final review at this time by the Bucks County Planning Commission does not change any of the uses itemized under the O/R District. She stated none of the uses have been eliminated, and no uses were added.

Mr. Joseph Gioconda stated he was previously not making the point that warehouses are traditional or eCommerce, and he stated all warehouses under the definition of warehouse in his experience are becoming eCommerce. He stated therefore the traffic engineer can just say he will find some data about eCommerce sites and amend his conclusions. He stated he is saying that generally the warehouse industry is becoming a 24/7, 365 eCommerce fulfillment-type model. He stated that would be true regardless of what tenant ultimately will end up in this space. Mr. Gioconda stated his point is this is not likely to be an eight-hour regular traditional warehouse. He stated any warehouse put here will end up with this problem.

Mr. DosSantos stated they are going under the supposition that this will be eCommerce.

Mr. Gioconda stated what he is saying is that no amount of traffic data amendment to this Study will account for that because it is too new, it is too localized, and it is not going to be captured in that. Mr. DosSantos stated they do not know that because Mr. Williams has not looked into what data is available. He stated they indicated that it is probably going to be an eCommerce facility. Mr. Gioconda stated the burden of

proof is on the Applicant, and Mr. DosSantos stated it is still on them. Mr. Gioconda stated therefore the Applicant has not met the standard to show that there should be a Special Exception. Mr. Gruen stated Mr. William stated he is going to look into it, and that is why they are not rendering a Decision this evening. Mr. Gioconda stated he continues to Object, and he would argue that any warehouse on that property, regardless of what their paid expert argues in a subsequent amendment, will be proper. Mr. Gruen stated before they render a Decision, they would like to hear what Mr. Williams' Traffic Study would show toward an eCommerce warehouse.

Mr. Gioconda stated he would Move to exclude Mr. Williams' Testimony as he has not shown that he is credible. Mr. Gioconda stated Mr. Williams argued that there would be a 1% to 2% change. He stated any expert that would put his reputation on the line and testify to this Board that without having done the Study it would be a 1% to 2% change in traffic should be excluded because it is "junk science."

Mr. McCartney stated they did indicate that it would be eCommerce.

Dr. Weiss stated if the Zoning Hearing Board decides to Continue this to have the Township traffic engineer to look into this situation, it will have to be put on the Agenda for the Board of Supervisors. He stated the current Agenda is set, but he could bring it up before the Board of Supervisors tomorrow to direct the traffic engineer to look into it. Mr. Gruen stated he would like the Board of Supervisors to assign a traffic engineer to help the Zoning Hearing Board with this Decision.

Dr. Weiss stated he will bring it before the Board of Supervisors tomorrow.

Mr. McCartney stated he feels it should be specific to eCommerce.

Mr. Ranieri asked who posted the sign on the property, and Mr. Gruen stated it was probably the owner. Mr. Dwyer stated he posted the Notice provided by the Township. Mr. Ranieri asked what the picture is depicting as it is representing a corporate park. Mr. Gruen stated that is an "old sign" that has been there for fifteen years. Mr. Ranieri stated it says, "Coming Soon." Mr. Ranieri stated he drives routinely in Cranbury and North Brunswick, and when there is a new warehouse going up, you see a picture on the board of a warehouse. Mr. DosSantos stated it is not going up yet because they have not approved anything. Mr. Ranieri stated the Township communicated to only people who live a short distance away – 300 feet. He stated the picture that is being depicted for that property right now is a picture of a corporate park for an office complex which he would be in favor of. He stated there are people passing through the community who live here who are thinking they will get another corporate park that will look like the one where the Holiday Inn is and where Penn Radiology is or "Floral Park." He stated a lot of the people who are passing by there are getting the

wrong information because they are not getting this communication that he received, and they believe there is going to be an office complex there. Mr. Ranieri asked that they extend the limits to more than 300 feet, and it should be a mile and a half.

Mr. Gruen stated the Zoning Hearing Board does not have the ability to change the rules and this could be mentioned to the Supervisors.

Mr. Murphy asked that the Application be Continued until June 18 which would give Mr. Williams the opportunity to prepare and submit a study and give the Township's traffic consultant the opportunity to review it.

Mr. Gruen suggested that they take the sign down from the property since it has been there ten years, and "it is not coming." Mr. Dwyer stated he needs to get an approval first before he can take the sign down or otherwise he "has nothing."

Ms. Lee moved to Continue the appeal to June 18 to give the Applicant time to do a more thorough Traffic Study and to work with the Township traffic engineer to provide more information to the Board.

Mr. Gruen stated he would like to add to that that they formally request the Board of Supervisors to appoint a traffic engineer to help the Zoning Hearing Board with its Decision.

Mr. McCartney asked that they make it specific Traffic Study to eCommerce.

Mr. McCartney asked how many square feet of warehouse do they have in the Country, and Mr. Dwyer stated it is 17 million square feet. Mr. McCartney asked how much of it is eCommerce, and Mr. Dwyer stated he did not know off hand. Mr. Dwyer stated we have stated from the outset that they used the highest numbers even though he has forty-two employees "showing up there," there are over 900 trips projected a day so clearly what they are projecting is a very, very high volume of use. Mr. Gruen stated there is a Motion on the floor and there is no Second.

Mr. McCartney Seconded.

Mr. Zachary Rubin stated a Motion to Continue is debatable, and it should be opened up for Public Comment. Mr. Rubin stated while he is not a traffic engineer and no one on the Zoning Hearing Board is a traffic engineer, he feels they should be able to determine that this project is going to create undue congestion and hazard; and he questioned why they need a traffic engineer to come up with "some figures and things like that."

He stated this is “unbelievable.” He stated the Zoning Hearing Board has the authority to deny this right now because it does not meet what a Special Exception does, and they do not need a traffic engineer to tell them it is undue congestion and hazard. He stated they should “not pass the buck like the Planning Commission did.”

Mr. Gruen stated they have no traffic engineers here, and they are not experts; and if they render an opinion now, it would only be their opinion. He stated before they render an opinion that would not stand in the Court, he would like to hear some professionals give the Zoning Hearing Board some more input; and when they render their opinion, they would “have something to stand on.” He stated if they just render an opinion now arbitrarily, the Applicant will take it to Court; and he does not know if it will stand. Mr. Rubin stated it is not arbitrary or capricious, and you can just stand at the intersection at 5:00 p.m. Mr. Gruen stated they need to base their opinion on some sort of evidence and proof, and he would rather be cautious about it rather than just pass a Motion and say “I don’t want it.”

Mr. Gioconda stated this is a Special Exception Application, and the Record is complete in that the Applicant has seen fit to bring in a paid expert who has offered his “incomplete opinion;” and therefore based on the data before the Zoning Hearing Board and based on common sense and the rest of the Record before the Board, he submits the Applicant has not met his burden of proof of showing that this Special Exception applies. He stated allowing a Continuance is going to actually “muddy the evidentiary Record” because their paid expert is going to “hunt down data that is favorable to them, massage the numbers, and arrive at the same conclusion.”

Mr. McCartney stated that is the reason they are engaging the Township engineer. Mr. Gioconda asked why they would have a “battle of experts” when we know what their expert already said is not credible based on the data that they have already put forward and based on common sense. He stated he feels the Zoning Hearing Board has heard plenty of Evidence, and they should “not pass this buck,” and to Continue this Application is “simply to muddy the Record;” and a Court reviewing this would not find the Decision to be arbitrary and capricious as there has been three hours of Hearing Testimony, multiple Witnesses under Oath, and the Applicant’s own admission and data which are incomplete. He stated it would very well stand up in the Court that it would satisfy the standard of review.

A short recess was taken at this time in order for the Board to consult with their attorney.

When the meeting was reconvened, Ms. Lee withdrew her Motion and moved to Continue the Hearing until June 18, 2019 to give the Applicant time to provide the Board with additional traffic information. Mr. McCartney seconded and the Motion carried unanimously.

Mr. McCartney moved to direct Dr. Weiss to have the Board of Supervisors to have the Board of Supervisors approve the Township Traffic Study to be done at the same location.

Dr. Weiss asked if he is asking to have the Township to authorize a Traffic Study or to have the Township direct the Township's traffic engineer to work with McMann, and Mr. McCartney stated it would be the latter; and Dr. Weiss stated they could do that. Dr. Weiss stated one requires a lot of money which is not in the Budget, and will not happen; but the other would be affordable. Mr. McCartney asked that they go with Plan B.

Ms. Lee stated the Township's traffic engineer is to define the scope of the Traffic Study. Mr. Gruen stated the Applicant will submit a Study, and turn it over to our engineer who will review it. Mr. Gruen stated this is not part of the Motion, and he is just explaining what they are asking for. Dr. Weiss stated the Zoning Hearing Board would like the Board of Supervisors to direct the Township engineer to work with McMann and come up with some recommendations. Mr. McCartney stated they are not asking that he work with McMann but that they review their Traffic Study. Ms. Kirk stated she will e-mail the recommendation.

Ms. Lee seconded.

Mr. Rubin asked if there is not an RFP that is going out for our traffic engineer, and it is a good possibility that the traffic engineer today will not be the same traffic engineer by June 18. Mr. Flager stated that is an issue for the Township and Mr. Rubin is in front of the Zoning Hearing Board right now. He stated if it is not relevant to anything that the Zoning Hearing Board has control over, then it is not relevant for discussion right now; and the Zoning Hearing Board can vote on the Motion that they properly put forth. Mr. Gruen stated if the Board of Supervisors changes engineers, it is not the Zoning Hearing Board's business.

Motion carried unanimously.

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There being no further business, Mr. McCartney moved, Ms. Lee seconded and it was unanimously carried to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,

Keith DosSantos, Secretary