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Transcript of Hearing

Date: August 9, 2023

Case: ZMA 2022-003 DR Horton - Smith Lake Estates

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HEARING

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ZMA 2022-003

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DR HORTON - SMITH LAKE ESTATES

9

Wednesday, August 9th, 2023

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A P P E A R A N C E S

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1 P R O C E E D I N G S

2 MADAM EXAMINER: Good morning everyone.
3 I'm Maurene McNeil. I'll be your zoning hearing
4 examiner today. It's August 9th, 2023. We're
5 here on a request -- application number ZMA-2022-
6 003, a request by DR Horton, Inc. to construct the
7 Smith Lake Estates. Well, let me back up. To
8 rezone the property from the RR zone to the RPD
9 zone. If counsel would identify themselves for
10 the record.

11 MR. TEDESCO: Good morning, Madam
12 Examiner. Can you hear me okay?

13 MADAM EXAMINER: Yes.

14 MR. TEDESCO: For the record, Matthew
15 Tedesco with the law firm of McNamee Hosea in
16 Greenbelt on behalf of DR Horton, Inc.

17 MR. BROWN: Good morning. Stan Brown,
18 People's Zoning Counsel.

19 MADAM EXAMINER: Good morning to both
20 of you. Before I turn it over to Mr. Tedesco,
21 this matter is an evidentiary hearing, quasi-
22 judicial in nature, so anyone here that's opposed

1 to the request would have a right to cross-
2 examine witnesses. I don't know of anybody
3 opposed to the request but I see several names.
4 So if anyone here is opposed, could you come on
5 camera and let me know that?

6 Or Mr. Tedesco, you know all the names.

7 MR. TEDESCO: Yeah. Madam Examiner, I
8 was just going to -- with the exception of the
9 folks on your end and Mr. Brown, everyone else is
10 with the applicant or the applicant's team.

11 MADAM EXAMINER: Okay. So no one in
12 opposition and you may begin.

13 MR. TEDESCO: Thank you very much. And
14 good morning again Madam Examiner, Mr. Brown, as
15 well as the administration staff who are helping
16 us livestream this today and make sure all the
17 bugs and everything get worked out if we have
18 any.

19 But as Madam Examiner indicated at the
20 outset, we are here today on a request for a
21 zoning map amendment, Case number ZMA-2022-003,
22 on behalf of DR Horton, Inc., which is the

1 applicant. The design team and many of whom you
2 see on the screen who will be testifying this
3 morning are made up of Rogers Consulting -- well,
4 let me back up.

5 On behalf of DR Horton, Inc. we
6 have -- we have a number of Matts or Matthews
7 here today, Madam Examiner, so we'll try not to
8 get you confused. But we have Matt Muddiman on
9 behalf of DR Horton. You have Matt Leakan with
10 Rogers Consulting, our land planner. Christine
11 Gillette who is our landscape architect on behalf
12 of Rogers Consulting. Charlie Howe who is our
13 engineer on behalf of Rogers Consulting. And
14 Steve Allison with Rogers Consulting who is our
15 environmental witness. Also with us we
16 have -- at least he was on there, yeah -- Alex
17 Villegas with Rogers Consulting, although Alex
18 won't be testifying today. The owner of the
19 subject property is Walton Maryland, LLC.

20 Just by way of housekeeping before we
21 get into it, Madam Examiner, and so I don't
22 forget, I did request and I would like permission

1 to substitute the statement of justification
2 that's in the record as Exhibit 2. It's dated
3 January 25th, 2023. We would like to simply
4 substitute that with what was emailed earlier
5 this week on August 4th. There was some typos
6 that we found and, as we'll get into testimony,
7 Mr. Leakan, who is a land planner, subsequently
8 reviewed and signed that justification statement
9 as Mr. Delvazo (ph) has since retired from Rogers
10 Consulting.

11 So Mr. Leakan -- we felt it was
12 necessary to have him review and sign off on that
13 statement of justification which is also the land
14 planning report. So with your permission, we
15 would like to substitute what was emailed on the
16 4th with Exhibit 2 just to keep the exhibit
17 numbers the same.

18 MADAM EXAMINER: Mr. Tedesco, unless
19 there's serious pushback on your part or People's
20 Zoning Counsel, the old SOJ is what was reviewed,
21 and I don't doubt anything you just said, but I
22 would prefer to keep the old one as -- it can

1 even be Exhibit 2A and this revised one Exhibit
2 2B explaining why the revision because I would
3 like to read them both to make sure. I know
4 you're correct in what you just said but I don't
5 want to get rid of it without being able to
6 compare the two myself.

7 And as to typos, you will see typos
8 everywhere. We try our best, all of us, but
9 there are other typos in the record I'm sure. So
10 if you don't mind, I would like to make the
11 existing one Exhibit 2A and the one dated August
12 4th Exhibit 2B. Does that work for you?

13 MR. TEDESCO: Yeah. I have no
14 objection.

15 MADAM EXAMINER: Okay. And Ms. Bah,
16 when you get a chance -- because I was going to
17 make it 33 but it does make sense for them to be
18 together, if the existing Exhibit 2 will now
19 become Exhibit 2A and the one -- the statement of
20 justification signed by Mr. Leakan will be
21 Exhibit 2B.

22 MR. TEDESCO: And we subsequently dated

1 that for August 4th just to try to keep --

2 MADAM EXAMINER: Yes.

3 MR. TEDESCO: -- things, you know,
4 organized, but Exhibit 2A and Exhibit 2B does the
5 same thing, so we have no objection.

6 MADAM EXAMINER: Okay. Mr. Brown, are
7 you good?

8 MR. BROWN: Yes, that sounds great.

9 MADAM EXAMINER: Okay. Oh, and Mr.
10 Tedesco, one more thing so I don't throw you off,
11 this is our first PD zone case --

12 MR. TEDESCO: Well, I was getting
13 there.

14 MADAM EXAMINER: -- and judging by
15 everything in the record there's a lot of
16 skipping around in the zoning ordinance with this
17 one. So if everybody would make their testimony
18 like they're talking to a third grader to make
19 the record very clear that would be helpful.

20 And my other one thing that I apologize
21 I didn't ask for earlier, whenever this is over
22 do you think you could send me a large copy of

1 the plans, the final version of all the plans,
2 because they're difficult for me to see even when
3 I blow them up online.

4 MR. TEDESCO: Yeah, I trust that my
5 colleagues at Rogers Consulting before this
6 hearing is over will have those printed and I'm
7 happy to pick those up or we can have those hand
8 delivered this afternoon to your office. They're
9 just across the street from you so we'll get it
10 to you before the end of the day for sure.

11 And Madam Examiner, yeah, you kind of
12 stole some of my thunder and I was going to
13 allow -- hopefully you were going to allow me
14 just some indulgence because I wanted to -- I
15 don't want to belabor the hearing or take any
16 longer than we necessarily need to, especially
17 since we don't have any opposition in this case,
18 but because this is the very first we are making
19 history here today and it does stand to reason
20 for us to maybe foundationally -- for me at least
21 to layout -- which I normally wouldn't do, but if
22 you would indulge me I think I would like to just

1 go through and just outline a few things and then
2 as we get to testimony, you are correct, there
3 is -- this is the new zoning ordinance and
4 there's a lot of intricacies, let me put it that
5 way, with respect to the new ordinance and these
6 new zoning classifications. So I did want to
7 highlight that but you already had.

8 So if you would, I just wanted to also
9 mention the fact that because this is the new PD
10 zone, planned development zone, specifically the
11 residential planned development zone, this case
12 is unique notwithstanding the fact that it's the
13 first one but also because this was a test case
14 that the consulting team and myself took through
15 Park and Planning the end of 2021 into 2022 as a
16 test case for the PD zones ultimately has evolved
17 into the case that's now before you.

18 And as I mentioned, we are making
19 history here today with respect to this being the
20 first planned development rezoning request in the
21 county under the new zoning ordinance. Just
22 generally speaking, you know, the county, as you

1 know Madam Examiner, adopted a new zoning
2 ordinance that took effect on April 1st, 2022.
3 That zoning ordinance, among other things,
4 recognized that the standard Euclidean zones are
5 far too restrictive and prioritize adherence to
6 standards over form, function, and quality of
7 design.

8 While there were comprehensive design
9 zones that allowed for greater flexibility in the
10 prior zoning ordinance, the new RPD zones
11 establish a forward thinking in framework placing
12 form and design at the forefront. These purposes
13 allow an applicant to develop -- an applicant for
14 a development to be more creative when examining
15 compatibility, pedestrian bicycle movement,
16 protection of natural environmental features,
17 open space, and design issues.

18 Moreover, and in so doing, an RPD zone
19 in particular creates an opportunity to provide
20 high-quality development that includes a unique
21 mix of housing types consisting in this case as
22 proposed single-family detached and the inclusion

1 of wider attached units we refer to as villas and
2 those range -- those envisioned villas range in
3 size from 26 to 28 feet up to 32 feet in width
4 and are two stories in height and are not
5 frequently found in the county.

6 In addition, given the current housing
7 issues plaguing the county and the region if not
8 the nation -- for example, in March of 2023 there
9 were only 798 active listings countywide for
10 homes in the county. Just four years ago there
11 were more than 1600. The combination of single-
12 family detached and attached villas will provide
13 the mix of housing types envisioned by the new
14 zoning ordinance for the RPD development and is
15 responsive to the housing opportunity for all the
16 countywide housing strategy from 2019 that the
17 county adopted.

18 Moreover, the inclusion of attached
19 product, in this case villas, is responsive to
20 the needs and the requests to offer products that
21 allow residents to age in place. Also, at
22 various price points. The proposed RPD zone

1 provides flexibility and design and product
2 types, and will supply low and high prices. The
3 RPD represents an opportunity to include density
4 that is consistent with the planning goals and
5 policies while also providing the ability to have
6 different offerings as far as products and
7 prices.

8 The RPD zone allows for a more
9 concept -- excuse me, strike that -- a more
10 compact and inclusive residential development
11 that is responsive and works with the existing
12 environmental features. The RPD zone allows the
13 ability to design around the site's existing
14 environmental features thereby creating an
15 environmentally sensitive design that preserves
16 and protects the environmental features.

17 Simply, the requested rezoning to the
18 RPD zone will allow for a more efficient use of
19 land and higher quality development while
20 respecting and preserving the environmental
21 features on site, being consistent with the
22 surrounding neighborhood and characteristics.

1 After all, the PD zones were
2 established and are intended to encourage
3 innovative land planning and site design concepts
4 that support high-quality development, preserving
5 the environmental features of the given property.
6 A proposed planned development zone
7 reduces -- planned development zones reduce
8 inflexibility of the zoning standards that often
9 result from strict application of the base zone
10 standards that thwart development.

11 At the conclusion of today's hearing,
12 Madam Examiner, there will be substantial
13 evidence in the record that pursuant to sections
14 27-4301(d)(1)(A) and 27-4302(a)(2) substantially
15 support the finding that this application is
16 consistent with and furthers the goals and
17 policies and visions of the Subregion 6 Master
18 Plan and Plan 2035 which is the county's general
19 plan.

20 The development proposes densities
21 consistent with the recommended residential low
22 land use of the master plan and the sectional map

1 amendment. The proposed uses of single-family
2 detached and attached dwellings are of similar
3 character to the surrounding community and are
4 contact sensitive as prescribed in Plan 2035 for
5 properties in the established community's growth
6 policy area.

7 Madam Examiner, with that I think we're
8 prepared to call our first witness unless you had
9 any questions and thank you for allowing me to go
10 through that kind of foundational introduction.

11 MADAM EXAMINER: Okay. I'm ready for
12 the first witness if you are.

13 MR. TEDESCO: Thank you. We would
14 first call Mr. Matthew Muddiman. If you could
15 queue up and unmute yourself, please.

16 MADAM EXAMINER: Good morning, Mr.
17 Muddiman.

18 MATTHEW MUDDIMAN,
19 being first duly sworn or affirmed to testify to
20 the truth, the whole truth, and nothing but the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

1 BY MR. TEDESCO:

2 Q Could you please state your name and
3 address for the record?

4 A Yes. My name is Matt Muddiman and my
5 address is 137 Mitchells Chance Road, Suite 300,
6 in Edgewater, Maryland 21401.

7 Q And what is your occupation and where
8 are you currently employed?

9 A I am a home builder at DR Horton. My
10 current title is land acquisition project
11 manager.

12 Q And do you know who the owner of the
13 property is that's the subject of this
14 application?

15 A Yeah. The owner of the property is
16 Walton Maryland, LLC, and DR Horton is under
17 contract for this property and has executed an
18 agreement for the purchase of this property.

19 Q Does that agreement authorize DR Horton
20 to seek the request for rezoning that's the
21 subject of this application?

22 A Yes, it does. It authorizes DR Horton

1 to seek a rezoning of this project and file the
2 application known as ZMA-2022-003 with MMC, PPC,
3 and the county as an authorized agent.

4 Q And have you been authorized to testify
5 and present this application for rezoning on
6 behalf of DR Horton?

7 A Yes, I have.

8 MR. TEDESCO: And Madam Examiner, just
9 for the record, Exhibit 24 is a limited power of
10 attorney authorizing Mr. Muddiman to testify here
11 today on behalf of the corporation.

12 Q Is DR Horton registered as a foreign
13 entity in good standing to transact business in
14 the state of Maryland?

15 A Yes.

16 MR. TEDESCO: And Madam Examiner, for
17 the record, Exhibit 18A is the certificate of
18 good standing for DR Horton, and just for the
19 completion of the record, Exhibit 18B is the
20 certificate of good standing for the owner,
21 Walton Maryland, LLC.

22 MADAM EXAMINER: Thank you for

1 clarifying the record.

2 MR. TEDESCO: You're welcome. As well
3 as for Mr. Brown's edification, we do have the
4 state ethics affidavits both for the owner and
5 applicant being Exhibits 9 and number -- why
6 can't I find it.

7 MS. GILLETTE: Number 3.

8 MADAM EXAMINER: Exhibit 3.

9 MR. TEDESCO: I was looking below
10 Exhibit 9. It was before Exhibit 9. Yeah, so
11 exhibit number -- thank you, Christine. Exhibit
12 3 and Exhibit 9 are the state ethics affidavits
13 on behalf of the owner and applicant.

14 MR. BROWN: And one very quick
15 question. I may be confusing DR Horton with
16 another entity, but did DR Horton change its name
17 about a year or two ago to another LLC? No?

18 MR. TEDESCO: No.

19 THE WITNESS: No, sir.

20 MR. BROWN: All right. Okay. No
21 problem. Thanks.

22 BY MR. TEDESCO:

1 Q Mr. Muddiman, please explain how Prince
2 George's County fits in with DR Horton's
3 strategic business plan.

4 A So DR Horton has been a home builder in
5 the county for over 20 years. We've been
6 attracted to the county for a number of reasons
7 and one of those reasons is the county's housing
8 strategy. It's been a primary driving factor for
9 us. You know, Horton has always been excited to
10 build in the county. You know, we're a developer
11 and we're a builder with the vision to create,
12 you know, outstanding communities for the
13 homebuyers and the surrounding area.

14 So Horton has had much success
15 throughout the entire country. We are actually
16 the number one home builder by volume in the
17 country. We're not just a finished lot builder
18 looking to purchase lots and support the housing
19 operation. We are actually a master developer
20 which has proven to be successful in managing,
21 funding, and building a project from initial
22 concept all the way through approvals and that

1 gets you eventually to the land development and
2 vertical construction process.

3 This puts the company in a unique
4 position compared to our competitors. We've
5 demonstrated this ability on numerous projects
6 throughout Prince George's County. Most recently
7 we've done this at Dobson Ridge, Calm Retreat
8 (ph), Woodmore Town Center, Chadsford Landing,
9 and many others. DR Horton is the number one
10 builder in many submarkets around the country,
11 but Prince George's County is one that we are not
12 but we are looking to grow and rapidly trying to
13 be successful as be the number one home builder
14 in the D.C. Metro area.

15 Q And conceptually, what is the vision
16 for the subject property if the request for
17 rezoning is approved?

18 A DR Horton is looking to seek approval
19 of its basic plan with single family attached,
20 single family detached, open space, trails, rec
21 facilities with densities ranging anywhere from
22 130 to 150 dwellings. This is in accordance with

1 the low density recommendations and provisions of
2 the R zone.

3 DR Horton's vision for the project is
4 to include a mix of housing types accommodating
5 multiple price points and ages. The community
6 has amenities such as the pond which we intend to
7 enhance and use as a feature along with a
8 centralized gathering space and other space that
9 links the protected environmental features. We
10 also intend to build pedestrian pathways which
11 we'll construct and be linked with various
12 elements of the neighborhood to create a very
13 walkable community for the residents to enjoy.

14 DR Horton is the applicant, the
15 developer, and the home builder, and is in the
16 unique position to carry the vision of this from
17 initial concept through construction as I
18 mentioned before. We intend to complete these
19 homes and create a very thriving and successful
20 community. We expect the community to follow in
21 the tradition of quality and thoughtful land
22 planning that we have successfully constructed in

1 other areas of the county.

2 The R-PD zone will allow the property
3 to develop single-family detached housing
4 compatible to the area on lot sizes more in line
5 with surrounding lots while allowing a density
6 similar to the existing allowable density in the
7 RR zone.

8 Q Mr. Muddiman, have you reviewed the
9 statement of justification that has been marked
10 as Exhibit 2B?

11 A Yes, I have.

12 Q And do you further incorporate and
13 adopt as your testimony here today that statement
14 of justification, Exhibit 2B?

15 A Yeah. Yes, sir.

16 Q And do you agree with the
17 recommendations of the planning board in its
18 Resolution number 2023-65 which is Exhibit 14B?

19 A Yes. I agree with the recommendation
20 of the planning board and its findings and
21 conclusions. In fact, we've had our consultants
22 over at Rogers Consulting address the planning

1 board's recommendation Condition number 1, and
2 Consideration number 1. I understand that our
3 witnesses will testify on this in greater detail
4 and that that is a minimum Condition number 1 in
5 Resolution number 2023-65.

6 Q And do you plan to incorporate green
7 building standards with this project if it moves
8 forward?

9 A Yes, we do intend to utilize the green
10 building techniques that is required by the new
11 zoning ordinance.

12 Q And did the applicant do any community
13 outreach associated with this application?

14 A Yes. In addition to all the statutory
15 requirements regarding the postings and the
16 mailings and such on June 20th, 2022, we actually
17 held an in-person neighborhood meeting at the
18 Holy Rosemary St. Joseph Center located in Upper
19 Marlboro. This notice actually went out to over
20 46 different addresses and the design team has
21 been very responsive to any and all inquiries
22 received by the community during the review of

1 this application.

2 MR. TEDESCO: Madam Examiner, I just
3 have to do a gratuitous plug. Mr. Muddiman
4 misspoke. He meant Holy Rosary which is
5 obviously -- you probably know the parish that I
6 grew up going to. So it was a full circle --

7 MADAM EXAMINER: You know I wondered
8 about it. That's what he answered.

9 THE WITNESS: I apologize.

10 MR. TEDESCO: So it was a full circle
11 moment when we had that neighborhood meeting at
12 my childhood parish. And those are all the
13 questions I have for Mr. Muddiman.

14 THE WITNESS: Thank you.

15 MADAM EXAMINER: Mr. Brown?

16 CROSS-EXAMINATION

17 BY MR. BROWN:

18 Q Yes. Good morning, Mr. Muddiman. How
19 are you?

20 A Good morning. Very good. How are you?

21 Q Doing well. And so you testified a
22 moment ago that you are an employee of DR Horton,

1 correct?

2 A Yes, sir. That's correct.

3 Q And you testified that Walton Maryland,
4 LLC is the current owner of the property,
5 correct?

6 A That is correct.

7 Q So you are adopting the statement of
8 justification on behalf of DR Horton,
9 Incorporated and Walton Maryland, LLC or just on
10 behalf of DR Horton?

11 A Just on behalf of DR Horton.

12 MR. BROWN: Mr. Tedesco, will anyone
13 testify on behalf of Walton Maryland, LLC?

14 MR. TEDESCO: No one is here to testify
15 on behalf of it. There is an agency relationship
16 that exists with them cosigning the application,
17 so I think Mr. Muddiman's testimony on behalf of
18 DR Horton is acceptable as an agent on behalf of
19 the owner, but there is no one here on behalf of
20 the owners, no.

21 MR. BROWN: Okay. No other questions.
22 Thank you.

1 MADAM EXAMINER: Thank you, sir.

2 MR. TEDESCO: Thank you. Our next
3 witness would be Ms. Christine Gillette.

4 Matt, if you could mute your -- thank
5 you.

6 MADAM EXAMINER: Good morning, Ms.
7 Gillette.

8 CHRISTINE GILLETTE,
9 being first duly sworn or affirmed to testify to
10 the truth, the whole truth, and nothing but the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. TEDESCO:

14 Q Could you please state your name and
15 address for the record?

16 A My name is Christine Gillette and my
17 employer address is 1101 Mercantile Lane, Suite
18 280, Largo, Maryland 20774.

19 Q And what is your occupation? Where are
20 you employed?

21 A I'm a senior landscape architect with
22 Rogers Consulting in Largo, Maryland.

1 Q And how long have you been employed in
2 the field of landscape architecture?

3 A Since internships in college and then
4 full time since 2004, about 20 years.

5 Q And are you a licensed landscape
6 architect?

7 A Yes, in the state of Maryland.

8 MR. TEDESCO: Madam Examiner, we're
9 going to ask that Ms. Gillette be accepted as an
10 expert in the field of landscape architecture.
11 We did submit her CV as Exhibit 31. She has not
12 previously qualified before you as an expert in
13 landscape architecture. If needed, I'm prepared
14 to offer some voir dire or Mr. Brown to voir dire
15 her, but we do have her CV as Exhibit 31. So
16 whichever way you would like me to proceed, I'm
17 happy to proceed.

18 MADAM EXAMINER: Let's turn it over to
19 Mr. Brown.

20 VOIR DIRE EXAMINATION

21 BY MR. BROWN:

22 Q Good morning, Ms. Gillette. How are

1 you?

2 A Good. Thank you.

3 Q I have reviewed your resumé, the four-
4 page document, and I really don't have any
5 problems with it but I do -- I must ask you one
6 or two questions and that is have you been
7 qualified in Prince George's County in any land
8 use case prior to today?

9 A I have not.

10 Q Have you been qualified in any court
11 proceeding whether in Prince George's County or
12 otherwise in the state of Maryland?

13 A I have not.

14 Q Have you sought to be qualified in any
15 court proceeding prior to today?

16 A No.

17 Q And so therefore you've never been
18 denied qualification as an expert in the field of
19 landscape architecture; is that correct?

20 A Correct.

21 Q I'm just curious. Your resumé is well
22 founded. I think you're probably qualified. But

1 why after 20 years of practice this is your first
2 time to seek to be qualified?

3 A It's just the first time I've had the
4 opportunity to be this deeply involved in the
5 project and be able to speak on behalf of this
6 project and the applicant.

7 Q Thank you.

8 MR. BROWN: No objection, Madam
9 Examiner.

10 MADAM EXAMINER: You probably wanted to
11 be qualified by me and so I'm going to do it.
12 You will be accepted as an expert in the area of
13 landscape architecture.

14 THE WITNESS: Thank you.

15 MR. TEDESCO: Madam Examiner, it looks
16 like somebody has just recently joined. I don't
17 know if we want to -- not with our team.

18 MADAM EXAMINER: Ms. Rosser (ph). Is
19 Ms. Rosser with you?

20 MS. ROSSER: Yes.

21 MR. TEDESCO: No.

22 MS. ROSSER: Yes. Good morning.

1 MADAM EXAMINER: Good morning. Can you
2 turn on your mic? I mean, on your camera a
3 second? Good morning. Are you opposed to this
4 application?

5 MS. ROSSER: Am I opposed to it? No.
6 I'm very interested in knowing more about the
7 application.

8 MADAM EXAMINER: Okay. Well, you can
9 tell us more at the end. But Matt, if you don't
10 mind, I'm going to say she's opposed at the
11 moment until she learns more just so she can ask
12 questions if she has any.

13 MR. TEDESCO: Can we say she's
14 interested until we know whether she's opposed or
15 not?

16 MADAM EXAMINER: I can't let everybody
17 ask questions.

18 MS. ROSSER: I wasn't intending to ask
19 questions. I'm really just listening to learn
20 more.

21 MADAM EXAMINER: Okay.

22 MS. ROSSER: I own an adjacent

1 property.

2 MADAM EXAMINER: Okay. That's perfect.
3 But will you make sure -- can you access the
4 chat? Or do you know how to email us? Because
5 we don't have any information on you like for
6 your address and we must have had -- someone must
7 have contacted you for you to have this --

8 MR. TEDESCO: Link.

9 MADAM EXAMINER: -- have the link.

10 MS. ROSSER: I'm sorry.

11 MADAM EXAMINER: So just keep
12 listening. Keep your mic off because it will
13 affect the recording. And if you change your
14 mind later, you can reach out to the -- Mr. Stan
15 Brown to see what we should do at that point.
16 Okay.

17 MR. TEDESCO: Thank you. Thank you,
18 Madam --

19 MADAM EXAMINER: Now you're in the
20 hearing. I mean -- wait one second, Matt.
21 You're looking a little confused. It is crazy to
22 do things virtually. I mean, if you decide later

1 on in the hearing you might want to ask a
2 question, perhaps if you know how you can send a
3 chat and someone will then let me know. Can you
4 see the chat on your computer or phone?

5 MR. TEDESCO: You're muted.

6 MS. ROSSER: Sorry. I see a react
7 hand.

8 MR. TEDESCO: Top right corner. At
9 least on my screen it's the top right corner.

10 MS. ROSSER: Yes, I do see it. Thank
11 you.

12 MADAM EXAMINER: Okay. So for now
13 we'll mute you and you can continue to listen.
14 Thank you.

15 MS. ROSSER: Thank you.

16 MR. TEDESCO: And I would just state
17 for the record as well, Ms. Rosser, I'll put my
18 information in the chat as well as far as my
19 contact information. If there should be any
20 reason for us to connect after the hearing, feel
21 free to reach out to me directly as well. I'm
22 the representative for the applicant. So I'll

1 put that in the chat or if somebody on my team
2 can put that in the chat for me while I'm trying
3 to shepherd us through this hearing.

4 So I think just going back to the
5 record to pick up where we left off, Ms. Gillette
6 was accepted as an expert in the field of
7 landscape architecture; is that correct, Madam
8 Examiner?

9 MADAM EXAMINER: That's correct.

10 MR. TEDESCO: And yes, of course we
11 wanted you to be the one to do that, so we thank
12 you.

13 DIRECT EXAMINATION (Resumed)

14 BY MR. TEDESCO:

15 Q Ms. Gillette, are you familiar with the
16 property that's the subject of this hearing?

17 A Yes.

18 Q And did you make a personal inspection
19 of the subject property?

20 A I have.

21 Q And when was the last
22 inspection -- personal inspection you made of the

1 property?

2 A Yesterday.

3 Q And what was yesterday's date just for
4 the record?

5 A August 8th.

6 Q And did you prepare the basic plan and
7 other site plan exhibits which were filed in
8 conjunction with this application?

9 A Yes. I personally prepared the basic
10 plan and the plan exhibits that were filed in
11 conjunction with ZMA-2022-003. I am very
12 familiar with the contents of the application and
13 the conceptual design for this development.

14 MR. TEDESCO: And Madam Examiner,
15 although we will provide the paper copies that
16 you requested, at least the next portions of Ms.
17 Gillette's testimony will be in reference to
18 Exhibit 22A and then at some point Exhibit 23. I
19 don't know if Ms. Poteet or any other --

20 MADAM EXAMINER: Ms. Bah.

21 MR. TEDESCO: Okay.

22 MADAM EXAMINER: So your first one is

1 Exhibit 22A?

2 MR. TEDESCO: Exhibit 22A. If Fatima
3 can maybe pull that up, that would be helpful.
4 Thank you.

5 Q Could you please describe the property
6 in the basic plan that's up on the screen,
7 Exhibit 22A, Ms. Gillette?

8 A Yes. So this property is roughly
9 triangular in shape with a very narrow frontage
10 on Frank Tippett Road to the east. The northern
11 edge is defined by Commo Road west of its
12 intersection with Frank Tippett Road. The
13 existing community and neighborhood context
14 includes Tippett Estates to the north across
15 Commo Road which is a community of single-family
16 detached homes on approximately one-quarter acre
17 lots in the RR zone.

18 Abutting the property to the east are a
19 few single-family detached homes on irregular
20 shaped and sized parcels also in the RR zone.
21 Across Frank Tippett Road to the east is Terraco
22 Acres which is also a community of single-family

1 detached homes on approximately one-quarter acre
2 lots, which are in both the RR and RSF-95 zones.
3 You'll see the entire southwestern boundary of
4 the property is defined by the 930 plus acre
5 Cheltenham Youth Facility in the RR zone which is
6 owned by the state of Maryland.

7 Into this community pattern the
8 applicant is proposing a development of
9 approximately 130 to 150 units with a mix of
10 single-family detached and single-family attached
11 homes which will be in character with the
12 surrounding subdivisions. The anticipated
13 density with the RPD zone is aligned with what's
14 currently allowed in the RR zone, approximately
15 2.2 to 2.5 dwellings per acre. The RPD zone will
16 allow the property to develop with single-family
17 detached and attached dwellings which are
18 compatible in the area on lot sizes that are more
19 in line with the surrounding lots.

20 The single-family attached dwelling
21 product proposed will be a 28 to 32-foot wide
22 typically main floor living dwelling that we've

1 referred to as villas and, as stated previously,
2 those will allow residents to age in place if
3 that's what they need. This villa style unit is
4 typically two stories in height which further
5 aligns in character with both the existing and
6 proposed single-family detached homes.

7 So our conceptual land plan for this
8 property has led to the basic plan before you
9 today. There are two pods of proposed dwelling
10 units shown on the basic plan. The blue pod,
11 generally near the property frontage, indicates
12 single-family attached units, and the yellow pod
13 that's woven around the existing environmental
14 features indicates single-family detached units.
15 If we could switch to Exhibit 23, the
16 illustrative please.

17 MADAM EXAMINER: As she's pulling that
18 up, could you tell me the acreage of those two
19 pods?

20 THE WITNESS: Let me pull that up
21 really quick. For some reason I don't have that
22 to hand right now. Sorry. That might just take

1 a moment to open my file to check those acreages
2 for you. Should I proceed --

3 MADAM EXAMINER: If I told you --

4 THE WITNESS: Uh-huh.

5 MADAM EXAMINER: If I told you -- am I
6 on? Okay.

7 THE WITNESS: Yes.

8 MADAM EXAMINER: That staff and
9 planning board said that single-family is on 5.41
10 acres and the townhouse is on 1.54; is that
11 correct?

12 THE WITNESS: I don't believe so.

13 MADAM EXAMINER: Thanks. I was
14 wondering how all of those homes -- so I do need
15 clarification. That typo -- see, typo Matt -- is
16 in both of their documents. So whenever you can
17 get back to me on that, that's perfect.

18 THE WITNESS: Sure.

19 MADAM EXAMINER: Thanks.

20 THE WITNESS: Yeah. I'll proceed with
21 this exhibit and then as soon as I can get that
22 number pulled up I'll update you.

1 A Okay. So before you right now is the
2 illustrative exhibit which our conceptual lot
3 layout and -- sorry. A bunch of fun things are
4 popping up now. Let's see. All right. So this
5 property's existing farm pond will serve as a
6 unique and valuable central organizing element
7 for this new community. It will be established
8 as a recreation area and gathering place with
9 convenient access through pedestrian walkways and
10 trails.

11 Potential amenities such as a multi-
12 age, multi-generation playground area will
13 provide for active recreation, and sitting areas
14 and picnic tables around the existing pond will
15 provide peaceful locations for passive
16 activities. A covered structure on or adjacent
17 to the pond will serve a strong visual identifier
18 for the community providing a common point of
19 reference and sense of place.

20 THE WITNESS: Sorry. And my file is
21 almost open here. One moment. All right. The
22 single-family attached pod in blue is

1 approximately 7.4 acres and the single-family
2 detached is approximately 22 acres.

3 MADAM EXAMINER: Thank you so much.

4 THE WITNESS: Yeah. Thank you for
5 waiting for that. I apologize that we didn't
6 incorporate that sooner.

7 BY MR. TEDESCO:

8 Q Were you done going through the
9 illustrative? I'm sorry.

10 A Yes. Yes. I believe so.

11 Q Okay. Could you tell us and the
12 examiner and Mr. Brown why the RPD zone was
13 chosen?

14 A Yes. The RPD zone facilitates the
15 ability to provide compatible development with
16 the surrounding properties while also providing a
17 mix of housing types within the development which
18 was envisioned in the new zoning ordinance and
19 the Housing Opportunity For All countywide
20 housing strategy 2019 plan.

21 The inclusion of the attached villa
22 product is responsive to the needs and requests

1 to offer a dwelling unit type that allows
2 residents to age in place as many of the floor
3 plans offer the main floor living style. The
4 flexibility that is provided by the RPD zone also
5 allows the applicant and design team to be
6 innovative with variety in single-family detached
7 and attached unit type as well as lot sizes to
8 achieve a high quality of development. With this
9 mix of housing styles, sizes and types, the
10 proposal is envisioned as a multi-generational
11 development with home ownership available at a
12 wide price range, accessible to first-time
13 homeowners, those seeking to purchase their
14 golden years home to age in place, and those in
15 between.

16 The RPD zone allows for more efficient
17 use of land while still providing the community
18 with safe vehicular circulation patterns,
19 stormwater management, and recreation facilities.
20 In utilizing the RPD zone in place of the
21 underlying RR zone, open space is essentially
22 converted from large unsustainable private lawns

1 into shared open space. This compact development
2 will allow for a much larger area of the property
3 to be preserved, reducing the impact on the
4 environment.

5 MR. TEDESCO: Could we have Ms. Bah
6 please pull up Exhibit 22A again please? Exhibit
7 22A.

8 THE WITNESS: Exhibit 22A is the
9 amended basic plan. Thank you.

10 MR. TEDESCO: Thank you.

11 Q Ms. Gillette, does Exhibit 22A, the
12 amended basic plan, provide the requested
13 development data?

14 A Yes. This plan includes the
15 development data table on the cover there.

16 Q And that's generally in the general
17 notes kind of middle of the page?

18 A Yes.

19 Q And does Exhibit 22A also provide the
20 requested development standards for this basic
21 plan?

22 A It does and that's also included in the

1 statement of justification, page 11.

2 Q And did you prepare --

3 MR. TEDESCO: If we could go to 22C,
4 Fatima, Exhibit 22C.

5 Q Did you prepare the circulation plan
6 and the connectivity index?

7 A Yes. Yes. So I prepared the
8 circulation plan in order to demonstrate that the
9 proposed development will meet the requirements
10 of the connectivity index as the new zoning
11 ordinance requires in Section 27-6206(f)(2).
12 This combination of links and nodes for
13 pedestrian and vehicular circulation within and
14 from the site exceed the requirement of 1.5 which
15 is required for residential and planned
16 development zones by providing 1.58.

17 To orient you, the nodes are the
18 intersection or endpoints of roads and walks, and
19 the links are stretches of roadway or sidewalk
20 between those nodes. An additional pedestrian
21 link has since been amended to the circulation
22 plan in response to some discussion at the time

1 of planning board.

2 Q And where was that additional link
3 added?

4 A To the northwest of the pond area
5 connecting the trail network to that portion of
6 the site.

7 MR. TEDESCO: And if we could go to
8 Exhibit 22D as in David.

9 Q Now, did you prepare the amended open
10 space set aside, Exhibit 22D?

11 A Yes. I prepared this open space set
12 aside exhibit in order to demonstrate that the
13 proposed development will fulfill the
14 requirements of the new zoning ordinance, Section
15 27-6400. The combination of natural features,
16 active recreation, and passive recreation that's
17 proposed on the site exceed the requirement of 20
18 percent of development site area for residential
19 base and planned development zones by currently
20 providing over 32 percent.

21 And as this is the first time -- the
22 first application that's featuring this graphic

1 representation of the new requirement, we just
2 want to note that the amounts provided for each
3 of the open space set aside categories are
4 anticipated to alter with subsequent develop
5 applications and final engineering design, but
6 the overall requirement of 20 percent will always
7 be fulfilled and will most likely increase with
8 further design.

9 Q And we had marked this exhibit as an
10 amended open space set aside plan. Could you
11 explain why this was amended or the original plan
12 was amended?

13 A Right. So this original plan was
14 amended to address planning board's
15 recommendation in resolution 2023-65. The
16 natural features -- the full extent of the
17 existing PMA was requested to be shown as the
18 natural features category in purple. We
19 previously had it shown as the amenity stormwater
20 management facility area and active rec, but
21 we've updated that to show in purple as
22 requested.

1 And this exhibit was also updated to
2 address the Consideration 1 from that same
3 resolution by representing more areas throughout
4 the site of passive recreation which is shown in
5 yellow on this exhibit. And then the tabulation
6 on this sheet and the total on the basic plan
7 have been updated to reflect those comparable
8 numbers.

9 Q Based upon the revisions that just went
10 through, is it your opinion that Condition 1 of
11 the planning board resolution, which is Exhibit
12 14B, Condition 1 may be deleted since it's been
13 addressed in this exhibit?

14 A I agree.

15 Q Are you familiar with Section 27-
16 3602(c) of the zoning ordinance?

17 A Yes. That section provides the
18 required findings that must be made to approve
19 the requested rezoning to the planned development
20 zone.

21 Q And while we will have a number of
22 other witnesses testify, I'm going to direct your

1 attention to Subsection (c) (3) and (c) (4). Are
2 you familiar with those subsections of 27-3602?

3 A Yes.

4 Q And in particular regarding subpart
5 (c) (3) which requires the -- prior to the
6 approval of the PD zone the application shall
7 demonstrate with satisfaction to the district
8 council that the development satisfies all
9 applicable standards of the proposed development
10 zone. In your opinion, does the application
11 satisfy the applicable standards of the proposed
12 RPD zone?

13 A It does. Per section 27-4302 (a) (2),
14 the specific uses allowed in an individual RPD
15 zone shall be established in the planned
16 development basic plan. The proposed uses of
17 single-family detached and attached dwellings are
18 permitted uses. These uses are also consistent
19 with the recommended land uses in Plan 2035 and
20 the Subregion 6 Master Plan and sectional map
21 amendment.

22 The density -- sorry. The intensity

1 and dimensional standards for the RPD zone are
2 found in Section 27-4302(a) (3) of the zoning
3 ordinance and are to be established with this PD
4 basic plan. All the standards are shown on sheet
5 1 of the proposed basic plan and conform to the
6 intensity and dimensional standards of the RPC
7 zone.

8 The additional standards, which are
9 provided in Section 27-4302(a) (3) state that the
10 minimum area must be 20 gross acres if the gross
11 density is less than five units an acre, the
12 property must be located in a residential base
13 zone, and each lot and attached unit in the
14 development shall have direct access to the
15 street.

16 So this proposed development meets each
17 of those stated criteria. The subject property
18 has a gross acreage of 62.52 acres and has up to
19 a 2.5 dwelling unit per acre proposed density.
20 The property is currently located in the RR base
21 zone and the basic plan shows that each lot in
22 the development will have direct access to a

1 street.

2 Q Regarding -- thank you. Regarding
3 subpart (c) (4) and as it relates to the basic
4 plan design, in your opinion will the rezoning of
5 the property to the RPD zone adversely impact the
6 surrounding properties?

7 A So with the RPD zone, a flexibly
8 designed community has the ability to adapt to
9 site specific conditions.

10 Q Hang on, Christine. Let me --

11 A Yes.

12 Q Christine, let me stop you just real
13 quick. In your opinion, will the rezoning of the
14 property to the RPD zone adversely impact the
15 surrounding properties?

16 A It will not.

17 Q And why not? I didn't mean to throw
18 you off. Go ahead.

19 A That's okay. Sorry to be just sort of
20 reading this junk. So with the RPD zone we're
21 going to have this flexibly designed community
22 with the ability to adapt to the site specific

1 conditions. This is creating the opportunity to
2 design neighborhoods that enjoy better design and
3 function than what would typically be provided in
4 the standard base zone development which, as you
5 stated earlier, is the very reason for the new
6 zoning ordinance including this planned
7 development zone process in the update.

8 The flexibility provided in the RPD
9 zone enables the type of development that's
10 sought in the county. This proposed basic plan
11 shows a development of single-family detached and
12 attached homes which results from concentrating
13 the allowable density on smaller lots than the RR
14 zone would permit in a more focused area than the
15 RR zone would require.

16 This higher level of design performance
17 respects the natural environment while also
18 including it in the direct daily experience of
19 the residents, provides active and passive
20 recreation facilities at a higher level than
21 would be provided under the RR zone development
22 parameters with less than half of

1 the -- sorry -- that would have less than half
2 the viable residential units than our proposed
3 with this basic plan.

4 This dramatic increase in recreation
5 facility value is a notable public benefit and
6 will be explored in detail with the subsequent
7 applications. This proposed development will not
8 adversely impact the surrounding communities as
9 it is compatible with the surrounding single-
10 family detached residential developments, as
11 mentioned earlier, and it provides similar
12 densities and lot sizes.

13 The Cheltenham Youth Facility to the
14 south on over 900 acres of land has no land use
15 compatibility issues and those site improvements
16 that are located on the land are quite distant
17 from the property boundary and all the standard
18 buffers and plantings that are required by the
19 Prince George's County Landscape Manual will be
20 provided at the time of detailed site plan and
21 this will add to the creation of a residential
22 space which promotes the health, safety, and

1 welfare of the future residents.

2 Q In your opinion, will the rezoning of
3 the property to the RPD zone promote development
4 patterns that respect the character of the
5 surrounding neighborhoods?

6 A Yes. My opinion is that the rezoning
7 will actively allow for the property to be
8 developed in both patterns and styles that
9 respect the character of the surrounding
10 neighborhood.

11 MADAM EXAMINER: May I interrupt one
12 second, Mr. Tedesco? I apologize.

13 MR. TEDESCO: No, you're fine.

14 MADAM EXAMINER: In the staff report
15 and in the -- in most of the documents it says
16 it's comparable and won't impact. Could you tell
17 me a little more? I think I heard you say -- and
18 that would be one thing that is comparable size
19 lots, but the other things you said explain why
20 it will be a great community for those that move
21 there.

22 I want to know a little more about how

1 it's not going to impact the communities that
2 exist already. And I know you -- I think all it
3 is is that you all know because you've been
4 dealing with this but I'm not hearing the words.
5 So could you just tell me a little more about why
6 it will be of benefit or not -- let me use the
7 correct --

8 THE WITNESS: Will not adversely impact
9 the surrounding properties?

10 MADAM EXAMINER: -- respects the
11 character of the surrounding neighborhoods.

12 THE WITNESS: Sure. The residential
13 units' style that will be -- that are proposed at
14 future applications will all be in a very similar
15 character to all of the residential units in the
16 surrounding area. Typically, you know, two-story
17 units. The villas, while attached products, the
18 character visually from the street is very
19 similar to detached product in that they have a
20 two-story frontage and some models even slope
21 down in the back to be one story. I believe some
22 of my colleagues will be addressing some more of

1 the compatibility and neighborhood character
2 later, but if you would like me to go into more
3 detail later, I can do that as well.

4 MADAM EXAMINER: Okay. I appreciate
5 that. And the pond, is the --

6 MR. TEDESCO: (Indiscernible).

7 MADAM EXAMINER: Oh, I'm so sorry.
8 Just my last one. That pond is still only
9 for -- the passive recreation is still only for
10 this new community or could the others access it,
11 the existing communities? I just want to know.
12 I don't care either way. I just want to clarify
13 that.

14 THE WITNESS: Sure. I'm not certain if
15 we've determined if it would be a private
16 recreation facility or public at this time.

17 MADAM EXAMINER: Thank you, Matt.

18 MR. TEDESCO: No problem. I was going
19 to say and Matt Leakan, who is our land planner,
20 who I know is listening in, we'll have him
21 address and to supplement Ms. Gillette's
22 testimony with respect to that question in

1 particular.

2 BY MR. TEDESCO:

3 Q You're familiar with the statement of
4 justification, Exhibit 2B; is that correct?

5 A Yes.

6 Q And does the statement of justification
7 in the land planning report, Exhibit 2B, address
8 Section 27-4301(d), the general standards with
9 respect to the planned development zones?

10 A Yes.

11 Q And in your opinion -- and Mr. Leakan
12 will go through these in greater detail, but in
13 your opinion as an expert landscape architect and
14 person who prepared the basic plan, does that
15 plan comply with those general standards?

16 A It does.

17 Q And you previously testified that
18 you're familiar with the planning board's
19 recommendation in this matter which was required
20 pursuant to Section 27-3602(b)(7)(A); is that
21 correct?

22 A Correct.

1 Q And did the planning board's written
2 recommendation, which is Exhibit 14B, determine
3 whether all of the general standards in Section
4 27-4301(b) were met?

5 A It did.

6 Q And do you agree with the planning
7 board's findings related to this application's
8 compliance with the general standards?

9 A I agree with it.

10 Q And does the application and basic
11 planning comply with the applicable standards in
12 Part 27-6 of the zoning ordinance?

13 A They do.

14 Q And turning your attention to Section
15 27-4105 regarding a loose reference to public
16 benefits as it relates to the comparison of the
17 planned development zone and the base RR zone,
18 are you familiar with that section?

19 A I am.

20 Q And did you attend and participate in
21 the planning board hearing held on May 18th,
22 2023?

1 A Yes.

2 Q And did the planning board address the
3 relationship between the RR zone and the proposed
4 RPD zone at that hearing?

5 A Yes. The planning board discussion
6 indirectly referenced Section 27-4105 of the new
7 zoning ordinance which states that generally the
8 planned development zone allows more flexibility
9 in the establishment of form, development, and
10 design standards for development in the zone in
11 return for more innovative and higher quality
12 development as well as the provision of public
13 benefits.

14 To start establishing the public
15 benefits in this case, the planning board
16 revision includes Condition of Approval 2C which
17 requires a detailed exhibit depicting all passive
18 and active recreation amenities at the time of
19 preliminary plan of subdivision which will be
20 provided by the applicant. And in further
21 support of this process, Planning Board
22 Resolution Consideration 1 has been addressed by

1 amending the open space set aside exhibit that is
2 on screen right now, as earlier mentioned, which
3 includes additional passive recreation areas in
4 yellow.

5 Q And in your expert opinion, do these
6 improved areas provide a public benefit and
7 address the planning board's discussion item?

8 A Yes. The recreation areas alone, which
9 will be further designed and expanded upon with
10 future applications including preliminary plan of
11 subdivision and detailed site plan, are at least
12 2.5 times greater than what would have been
13 required by any development within the RR base
14 zone. The presence of this existing farm pond,
15 which will be retained as an amenity element for
16 the new residents, is a rare and valuable site
17 feature that goes beyond quantifiable benefits.

18 MR. TEDESCO: Madam Examiner, those are
19 the questions I have for Ms. Gillette at this
20 time.

21 MADAM EXAMINER: Thank you. Mr. Brown?

22 MR. BROWN: Yes.

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CROSS-EXAMINATION

BY MR. BROWN:

Q Ms. Gillette, Mr. Tedesco indicated that he filed an amended or revised statement of justification yesterday or today, and with regards to the documents you testified to today, the current exhibit, open space set aside exhibit I think it's described as, and any other plans you described today, are those plans impacted by the revised statement of justification that was filed today?

A They wouldn't be altered by it.

Q Okay. And this next question you may not know the answer to, and I don't know the answer to it, but it's just to make the record clear so that if Mr. Tedesco has someone else who will testify later they can address this issue and that is under the old zoning ordinance there were prohibitions in terms of time limits as to when a property could be rezoned, that is a property could not be rezoned within say a two-year period or a three-year period after a prior

1 application had been denied or, in some
2 situations, after a sectional map amendment has
3 been adopted.

4 I'm not suggesting there's a problem
5 here but I just want it on the record, Mr.
6 Tedesco, if someone could state at some point
7 before this hearing is over that although we have
8 adopted a new zoning ordinance on April 1, 2022,
9 I could not find in the new ordinance or the
10 staff report or the statement of justification a
11 reference to the fact that it is allowed to have
12 a rezoning, what is it, 15, 16, 17 months after a
13 new ordinance was adopted. I don't think it's a
14 problem but, again, I just want it on the record
15 before this record closes. Okay.

16 A I don't have any information on that
17 but I can look into it while others discuss
18 testimony.

19 Q All right. Thank you.

20 MR. BROWN: No other questions.

21 MR. TEDESCO: I'm happy to respond to
22 that now but I'll bring it up in testimony if

1 that suits the examiner and People's Zoning
2 Counsel.

3 MR. BROWN: All right. Thanks.

4 MR. TEDESCO: Yeah. We would call Mr.
5 Charlie Howe next.

6 MADAM EXAMINER: Before you do --

7 MR. TEDESCO: Okay.

8 MADAM EXAMINER: -- I have like a
9 zillion pieces of paper around me as I'm sure you
10 all do. I thought I read somewhere that the
11 basic plan does not show the exact number of
12 dwelling units. It says a max of 150 and staff
13 said that will be done later, but I thought in
14 the requirements for a basic plan you had to say
15 that on the basic plan. Am I incorrect or is it
16 on there and I just missed it?

17 MR. TEDESCO: We have arranged -- well,
18 Ms. Gillette can cite you to the general notes
19 but I believe there's a range on the basic plan
20 with respect to what's proposed.

21 MS. GILLETTE: Correct. Under the
22 development data table, sort of central in those

1 notes on the basic plan, we have listed the
2 RPD -- sorry. Everything is glitching all of a
3 sudden. We had the RR base density listed at the
4 2.17 dwelling use per acre, which is the lower
5 end of the 130 units, and the RPD proposed
6 density of 150 units maximum.

7 MADAM EXAMINER: But not a breakdown as
8 to the maximum of each?

9 MS. GILLETTE: Of allocation of
10 different types of units.

11 MADAM EXAMINER: Yes.

12 MS. GILLETTE: We do not have that
13 listed on here, no.

14 MADAM EXAMINER: Okay. Thank you.

15 MR. TEDESCO: Mr. Howe?

16 THE WITNESS: Good morning.

17 MR. TEDESCO: Good morning.

18 MADAM EXAMINER: Okay. Ms. Bah, you
19 can take down that exhibit for now.

20 And Mr. Howe, I can't even see you
21 right now.

22 CHARLIE HOWE,

1 being first duly sworn or affirmed to testify to
2 the truth, the whole truth, and nothing but the
3 truth, was examined and testified as follows:

4 MADAM EXAMINER: And it's Howe, right,
5 HOWE?

6 THE WITNESS: It's Howe, correct.

7 MADAM EXAMINER: Okay.

8 THE WITNESS: That's correct. Thank
9 you. And yes I do.

10 DIRECT EXAMINATION

11 BY MR. TEDESCO:

12 Q Mr. Howe, could you please state your
13 name and address for the record?

14 A Sure. It's Charlie Howe. I'm a
15 professional engineer. My employer address is
16 1101 Mercantile Lane in Largo, Maryland 20774.

17 Q And what is your occupation and who is
18 your employer?

19 A I'm a site civil engineer employed by
20 Rogers Consulting in Largo, Maryland. My title is
21 team leader and principal with Rogers.

22 Q And how long have you been employed in

1 the field of civil engineering, site civil
2 engineering project management?

3 A I've been a civil engineer for 18 years,
4 15 of which have been exclusively in Prince
5 George's County.

6 Q And you're a licensed PE?

7 A Yes. I am license number 32490.

8 Q And have you previously qualified and
9 been accepted as an expert in civil engineering
10 before this administrative body, this hearing
11 examiner?

12 A Yes, I have for two previous cases, one
13 being A-10059 and the other A-10060.

14 MR. TEDESCO: And Madam Examiner, we
15 have Mr. Howe's CV marked as Exhibit 32 and we
16 would ask that he continue as an expert in the
17 field of civil engineering.

18 MR. BROWN: I have no objection but, Mr.
19 Howe, in the future when you reference cases that
20 you've been qualified in previously -- I'm an old
21 man. I have no idea what those numbers stand for.
22 Okay.

1 THE WITNESS: I got you. One was Dobson
2 Farms, the other one was on Saddle Ridge, but
3 okay.

4 MR. BROWN: And --

5 MR. TEDESCO: I'm sorry, Mr. Brown.
6 Yeah. I was just going to say those were cases
7 recently heard by the hearing examiner over the
8 last two year I think, respectively. So if Mr.
9 Allison could make a note of that in his answer
10 forthcoming that would be great.

11 Q Mr. Howe, are you familiar with the
12 property that's the subject of this hearing?

13 A Yes.

14 Q And did you make a personal inspection
15 of the property?

16 A Yes. I've had multiple visits to the
17 property most recently being August 8th, 2023.

18 Q And from a civil engineering
19 perspective, could you describe the subject
20 property or, if you need to, you can incorporate
21 and adopt Ms. Gillette's testimony, but any
22 components that maybe Ms. Gillette didn't hit on

1 with respect to the property description from a
2 civil engineering perspective?

3 A Sure. I think Ms. Gillette hit on the
4 location of the property and also, just to
5 reiterate, within the property exists an
6 approximately two-acre farm pond and that's going
7 to be utilized for stormwater management, flood
8 control. In addition, the pond will also be
9 utilized as a central gathering place for the
10 benefit of the community, conveniently located
11 with access points from pedestrian walkways and
12 trails. Also, potential amenities such as park
13 and parks, playground areas, and sitting areas for
14 passive recreation around that existing pond.

15 MR. TEDESCO: And Ms. Bah, if we could
16 pull up Exhibit 22E as in Edward.

17 Q Mr. Howe, could you explain the
18 improvements or existing conditions, environmental
19 features, stormwater facilities, and other
20 utilities based upon this plan?

21 A Sure. This plan shows water and sewer
22 connections into -- well, water connections into

1 Frank Tippett Road as well as Commo Road with the
2 sewer connection into Commo. The proposed
3 development ponds are all located within water and
4 sewer category 3 which is adequate for public
5 connections. Site access is shown from Frank
6 Tippett Road.

7 As far as some of the existing features,
8 there was a PMA that was delineated and shown on
9 the improved NRI. I'm sure Mr. Allison can
10 elaborate on that as well. We also processed a
11 flood plain delineation which was approved by DPI
12 showing about 2.5 acres within the flood plain,
13 all within the PMA.

14 Access to the site will have -- or
15 available to the site, there will be Pepco,
16 Washington Gas, Verizon, Dry Utilities, and as I
17 mentioned previously, this plan also shows the
18 existing pond that will be utilized for quantity
19 control and flood control.

20 This plan also outlines stormwater
21 management in ESD facility locations, potential
22 ESD locations that will connect to the storm drain

1 also outlined on this plan.

2 Q And I know you previously just mentioned
3 this but could you just for the record again
4 indicate what the water and sewer category is for
5 this area and this particular property?

6 A Yes. This property is water and sewer
7 category 3.

8 Q And do you know what sustainable growth
9 tier this property is located in?

10 A Yeah. This is in tier 1 of the
11 Sustainable Growth Act. So it's currently planned
12 for public sewer service. It's also within the
13 established community category on the growth
14 public, excuse me, growth policy map for planned
15 water and sewer service areas.

16 Q Turning your attention to Section 27-
17 4301(d), are you familiar with that section?

18 A Yes.

19 Q And in your expert opinion, does the
20 requested rezoning and the associated basic plan
21 identify the general location -- and this is
22 Subpart KD-1K -- identify the general location of

1 onsite potable water, wastewater facilities, and
2 how they will connect to the existing plain and
3 planned county and regional systems in a manner
4 consistent with the purposes of the individual
5 requested PD zone?

6 A Yes. As I noted on the stormwater
7 management facilities, and their connections are
8 shown. Also, as mentioned, the 2018 water and
9 sewer plan identifies the proposed development
10 within category 3, the proposed water and sewer
11 connections shown on the conceptual plan that you
12 have up here in Exhibit 22 as well.

13 Q And does the requested application and
14 associated plans identify the general locations of
15 on-site storm drainage facilities and how they
16 will connect to existing and planned county
17 systems in a manner consistent with the purposes
18 of the RPD zone?

19 A Yes, it does. The on-site storm drain
20 is located -- is shown on this exhibit as well as
21 the connection to the potential stormwater
22 management facilities that are shown, the ESD

1 facilities.

2 Q And does the application and associated
3 plans identify the general location -- this is
4 Subpart M -- identify the location and layout of
5 all other on-site/off-site public facilities
6 serving the development? In particular, the other
7 on-site and off-site public facilities
8 considered -- regarding stormwater management?

9 A Yes, it -- sorry. I thought I got
10 interrupted. Yes, the subject property, it's not
11 located within a municipality. As far as the fire
12 station, Fire Station 840 is located on Brandywine
13 Road. That's within five miles of the property.
14 Clinton Police Station is located off Brandywine
15 Road as well. That's within seven miles of the
16 site. As I mentioned before, the existing pond
17 will be utilized for flood control for the
18 drainage of the property as well with the proposed
19 stormwater management that I outlined previously.

20 Q And does the plan and requested rezoning
21 establish provisions addressing how
22 transportation, potable water, wastewater,

1 stormwater management, and other public facilities
2 will be provided to accommodate the development?

3 A Yes, it does. As I mentioned, we're
4 within proposed water and sewer category 3. The
5 proposed lots will be served by public water and
6 public sewer connections. On-site vehicle and
7 pedestrian circulation systems, they're going to
8 connect to Frank Tippet Road which is classified
9 as a master plan collector road with shared lanes.

10 Q And then finally -- your indulgence for
11 a second. Finally, turning to Section 27-
12 4302(a)(1)(E), in your opinion does the planned
13 residential community respect its topographic and
14 other environmental characteristics of the site?

15 A Yes, it does. The proposed development
16 pods were laid out to fully respect the existing
17 environmental features and steep slopes as shown
18 on the PMA, on the approved NRI. The topography,
19 you know, varies throughout but generally flows
20 either to the north within the PMA areas or to the
21 existing farm pond and stream valleys. The
22 proposed development preserves to the fullest

1 extent practicable the existing environmental
2 features, specifically the streams, slopes,
3 existing ponds, which is a valuable asset to the
4 future community. Views into the environmental
5 features are going to be the focal point in the
6 development along the streets and at the
7 intersections.

8 MR. TEDESCO: Madam Examiner, those are
9 all the questions I have for Mr. Howe.

10 MADAM EXAMINER: Mr. Brown?

11 MR. BROWN: I have no questions.

12 MADAM EXAMINER: Mr. Howe --

13 THE WITNESS: Yes?

14 MADAM EXAMINER: This is probably not
15 you but when you were going through the public
16 facilities part of it -- and if it's somebody
17 else -- this is just -- I'm just wondering about
18 this, how that with the schools -- why is it Gwynn
19 Park Middle School but Frederick Douglas High
20 School? I mean, is that a typo or is that really
21 what it is right now and not Gwynn Park High
22 School? Anybody know or --

1 THE WITNESS: I don't know. That's
2 something I would have to look into.

3 MR. TEDESCO: I'll have to look into it,
4 Madam Examiner. Personally speaking, that area of
5 the county would have gone to James Madison.
6 Thirty-five years ago when I went to James Madison
7 it would have gone to Frederick Douglas. But we
8 can look into the cluster to make sure that's not
9 a typo from the staff report.

10 MADAM EXAMINER: It just threw me off
11 when it said Gwynn Park Middle. Okay. Thank you
12 very -- thank you very much.

13 MR. TEDESCO: Yeah. They may have
14 redistricted those as far as Gwynn Park Middle
15 with Brandywine. Certainly Brandywine has evolved
16 since the early 1990s, late '80s, but I can say
17 when -- as a graduate of James Madison Middle
18 School, that area would have gone to James Madison
19 Middle School back in my day, but we'll double
20 check that and get back to you.

21 MADAM EXAMINER: Okay. Thank you.

22 THE WITNESS: Thank you.

1 MR. TEDESCO: Madam Examiner, we have
2 two more witnesses but I think at this time I'm
3 going to recall Ms. Gillette just to be responsive
4 to Mr. Brown's inquiry with respect to the timing
5 of any requests of rezoning based upon the
6 implementation of the new zoning ordinance.

7 MADAM EXAMINER: Okay.

8 MR. TEDESCO: Just for two quick
9 questions for the record.

10 MADAM EXAMINER: And you're still under
11 oath. Go ahead.

12 FURTHER DIRECT EXAMINATION

13 BY MR. TEDESCO:

14 Q Ms. Gillette, obviously you recall Mr.
15 Brown's inquiry with respect to whether the new
16 zoning ordinance provides any timing prohibitions
17 on the ability to file a rezoning application
18 within a certain period of time of the
19 implementation of the new zoning ordinance. Do
20 you recall that?

21 A I do.

22 Q To your knowledge, are there any

1 prohibitions in the zoning ordinance that
2 restrict the ability of an application to be
3 filed to one of the new zoning classifications
4 within the zoning ordinance whether it's planned
5 development or otherwise?

6 A Not to my knowledge.

7 Q Are you -- forgive me. This may be a
8 better question for Mr. Leakan so if you don't
9 know -- but do you know -- are you familiar with
10 the Subregion 6 Master Plan that's the subject of
11 this application or that this property is within?

12 A Yes, I am familiar with it.

13 Q Do you know when that was adopted, what
14 year? If you don't, it's okay. Mr. Leakan will.

15 A I think it may be 2013 but --

16 Q You are correct.

17 A Okay.

18 Q And so -- and this will be a question
19 I'll ask Mr. Leakan as well, but to your
20 knowledge as the preparer of the basic plan, are
21 you aware of any pending sectional map amendments
22 for this area?

1 A Not to my knowledge.

2 MR. TEDESCO: I have no further
3 questions.

4 MR. BROWN: No questions. Thank you.

5 MR. TEDESCO: Thank you, Mr. Brown.
6 We would call Mr. Steve Allison.

7 THE WITNESS: Good morning.

8 MADAM EXAMINER: Good morning, Mr.
9 Allison.

10 STEVE ALLISON,
11 being first duly sworn or affirmed to testify to
12 the truth, the whole truth, and nothing but the
13 truth, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. TEDESCO:

16 Q Mr. Allison, could you please state your
17 name and address for the record?

18 A Yeah. Steven Allison. My work address
19 is 1101 Mercantile Lane, Suite 280, Largo,
20 Maryland 20774.

21 Q And where are you employed?

22 A Rogers Consulting.

1 Q And what's your title?

2 A I'm the team leader of the environmental
3 team and I'm a senior associate with the firm.

4 Q And are you a licensed landscape
5 architect and are you an ISA certified arborist?

6 A That is correct, since 2015.

7 Q And you've previously qualified and been
8 accepted as an expert in arboriculture and
9 landscape architecture before this hearing
10 examiner; is that correct?

11 A That's correct, in cases A-10059 Dobson
12 Farms and A-10060 Saddle Ridge.

13 MR. TEDESCO: And Madam Examiner, Mr.
14 Allison's CV is Exhibit 26 and we would ask that
15 he continue in that qualification as an expert in
16 arboriculture and landscape architecture.

17 MR. BROWN: No objection.

18 MADAM EXAMINER: You will be admitted as
19 an expert in arboriculture and -- I'm so sorry.

20 MR. TEDESCO: Landscape.

21 MADAM EXAMINER: Arboriculture and --

22 THE WITNESS: Landscape architecture.

1 MADAM EXAMINER: -- and landscape
2 architecture. And just before you start, I mean,
3 we didn't want to put Ms. Gillette on, but there
4 are some provisions in the law on rezoning. It
5 may not affect this case but the one with PDs is
6 Section 3408 and I believe there is things with
7 the other zoning map amendments as well. So you
8 can readdress that later, Mr. Tedesco, if you'd
9 like. Okay. I'm sorry, Mr. Allison.

10 Q Were you employed by the applicant to
11 perform certain services associated with the
12 subject property?

13 A Yes, that's correct.

14 Q And what services did you perform?

15 A We went ahead and conducted the natural
16 resources inventory. We did this in January of
17 2022. We do this to get a better understanding of
18 the existing habitat and ecological features on
19 site that are required. It also gives us -- it
20 identifies the regulated features and gives us the
21 framework of how we develop the site and
22 ultimately how we make our decisions.

1 This type of work involves a desktop
2 analysis of existing data. We go through a litany
3 of different websites. We use PG Atlas from
4 Maryland-National Capital Park and Planning. We
5 use MERLIN, Maryland Environmental Resources Land
6 Information Network. We go over national wetland
7 inventories to look at the site. We check soils.
8 We go over wetlands and identify those pieces
9 there. And we also go through the forest
10 ecosystem in there and we pull together a plan and
11 then submit it to the county for approval of all
12 the natural features.

13 Q And Exhibit 5 is the NRI; is that
14 correct?

15 A Let me take a look here. I believe so.

16 Q And you're familiar with the basic plan
17 that's the subject of the hearing today?

18 A I am.

19 Q And what components of the basic plan
20 did you assist with and why?

21 A Sure. It's the development of the
22 natural resources plan and going through that area

1 what we do is we evaluate each piece of the
2 regulated features and then we use that
3 information to educate the design team on to
4 describing what exactly they need to avoid and
5 what regulated features.

6 This site had one freshwater pond as
7 shown on the National Wetland Inventory. We've
8 talked about that a little bit. It had two
9 unnamed tributaries, Piscataway Creek. It had
10 three -- or two contiguous wetlands on site
11 equaling 2.19 acres. They are a cluster of
12 emergent wetland, a cluster of forested wetland,
13 and a clustered unconsolidated bottom wetland,
14 which is what that pond was.

15 We identified these wetland criteria
16 through vegetation, soils, and hydrology. That's
17 a typical method on figuring out the chemistry of
18 the site and if the plants are picking up the
19 hydrophytic circumstances. The site is located in
20 the Waldorf Upland Plain District of the Atlantic
21 Coastal Geological region of Maryland and it was
22 representative of that of flat surfaces with

1 alluvial plains and fluvial (indiscernible).

2 We also evaluate through the design
3 process. We look at the PMA, which Charlie
4 mentioned, which is the vegetative buffer that
5 encompasses the 100-year flood plain, wetland
6 buffers, steep slopes, and any additional critical
7 habitat for the site.

8 We also take into account the stream
9 buffer, which is 75 feet for this environmental
10 strategy area for the site. And we also take into
11 account tier 2 high-quality waters and the buffer
12 that is applied to that. So you get about three
13 buffers. This is in the Piscataway Creek
14 catchment that has no assimilative capacity. We
15 go ahead and add redundant ENS controls around
16 that tier 2 area.

17 The site contained 25 acres of forest
18 out of the 62 and one of the criteria as we're
19 doing this design, we're holding the woodland
20 conservation threshold to 20 percent of the site,
21 which is about 12 acres of the site, and in our
22 basic plan development we've met that criteria

1 that is part of the RR then moving to the PD zone.

2 Fence habitat wasn't identified on the
3 site. It's one of the criteria we look at.

4 That's basically a woodland that's 50 acres in
5 size. If you have ten acres of interior forest
6 you need to have an edge 300 feet away from -- a
7 forest edge 300 feet away into the interior to
8 qualify. We didn't see that on site.

9 When we're going through the NRI process
10 we also look for specimen trees. There was about
11 111 but ideally they were in the regions where the
12 stream valleys were, which is what we've kind of
13 setup to protect. So we identified six forest
14 stands in the area and evaluated the trees on site
15 for their size and growth and what we found useful
16 to protect really and a lot of it fell in the
17 existing forest.

18 The environmental features located on
19 the site containing the highest ecological value
20 were, like I said, located in the stream valleys
21 and 61 of the specimen trees were located within
22 those stream valleys that are just naturally going

1 to be protected with the buffers that we have.

2 The basic plan associated with this
3 application in my opinion not only preserves these
4 areas but offers opportunity, especially in the
5 western portion of the site, for meadow
6 establishment, additional afforestation that we're
7 looking to do on site. So any forest or any
8 pieces that we would hit, we're looking to bring
9 that back on site, continue with the native
10 ecology that's there. The existing pond and
11 surrounding wetlands that are adjacent to the
12 pond, we're also preserving those.

13 So I'm going back and forth of my
14 environmental assessment, working with the
15 engineers and the design team. The basic plan,
16 you know, takes a prudent approach to preserving
17 the high value ecological areas for this property
18 and maintains a high level of on-site
19 environmental sensitivity, especially with how
20 we're going to use that pond to turn into an
21 amenity and not disturbing the ecology within the
22 pond that exists.

1 The RPD zone, which provides the
2 flexibility of designing innovative, high-quality
3 planned residential communities, it's really done
4 its best part for this exact property to maintain
5 what exists out there and that you have some type
6 of connectivity to a green infrastructure and
7 neighborhood that can be transitioned off-site as
8 well of any existing forest out there.

9 Q Thank you. And you're familiar with
10 Section 27-3602(c) which is the decision standards
11 for a planned development zone; is that correct?

12 A I am, yeah.

13 Q And in reference to Subsection (c)(1),
14 which requires conformance with the general plan
15 applicable area master plan, in your opinion how
16 does this application address the or conform with
17 the area master plan recommendations from an
18 environmental standpoint?

19 A Sure. We review the environmental
20 infrastructure section, Subregion 6 of the Master
21 Plan, the sectional map amendments. We've taken a
22 good look at the nine policies for protecting,

1 preserving, and restoring regulated features. The
2 principle guidelines as set forth are plan to -- I
3 mean number one hit, preserve, enhance, restore
4 the county's natural ecosystems. The way we've
5 developed this, we've really hit on the Policy 1
6 which was protect and preserve and restore any
7 green infrastructure network where if you would
8 look on the mapping for the county we do fall into
9 that area. The areas that are not evaluated but
10 felt part of the green infrastructure network are
11 the exact areas that we are saving.

12 So, I mean, the Policy 1 through 9 go
13 through a litany of different objectives, but we
14 hit Policy 1. We hit Policy 2 to restore and
15 enhance the water quality. You do that by
16 maintaining the forest and the slopes going to the
17 water. We've gone ahead and done that. And, you
18 know, Policy 4 is talking about the restoration of
19 Chesapeake Bay and protecting that. By protecting
20 the forest along the stream areas, that's how that
21 works. So we had a good opportunity doing that as
22 well and we met different -- you know, green

1 building techniques, we've mentioned that as well
2 in Policy 7 of what we're pushing.

3 So when we do develop this, we looked at
4 the green infrastructure plan, the countywide
5 infrastructure plan, evaluated that we hit the
6 mark on there. Our woodland conservation, hitting
7 the 20 percent threshold which we started from the
8 get-go. The preservation of as many specimen
9 trees that is not involved with any access impacts
10 or anything of that nature, we went ahead and did
11 that. And we evaluated our environmental features
12 through the PMA and taking the evaluation of
13 anything wholistically on the site was connected,
14 we looked to preserve it.

15 Q And are there any other environmental
16 considerations that are advanced by the proposed
17 basic plan in your opinion?

18 A Yeah. I mean, one of the key ones is
19 looking at the environmental features that we're
20 saving. You know, the existing woodland
21 primarily. When we do develop this, this site
22 gets connected into the transient corridor and

1 gets protected by the conservation easements. So
2 through the development we're able to protect the
3 forest and stream areas in perpetuity with the
4 conservation easements that we're required to put
5 in.

6 Q And are you familiar with Section
7 27-4301(a)(7) of the zoning ordinance?

8 A I am. That basically develops the
9 respect and takes advantage of a site's natural
10 and scenic and man-made features. And yes, we've
11 reviewed that.

12 Q And in your opinion does the requested
13 rezoning to the RPD zone for the subject property
14 address that purpose?

15 A Yeah, it does. The applicant and the
16 design team focused this property on the
17 preservation of those areas to the extent
18 practical, specifically the streams, the slopes
19 for the erosion, the existing pond, and preserved
20 greatest extent possible what are valuable assets
21 for the community.

22 Q In your expert opinion, does the planned

1 residential community respect the topographic and
2 other environmental characteristics which is the
3 purpose of --

4 A Yeah, they --

5 Q -- the rezoning?

6 A Yeah, they do. The Smith Lake Estates
7 property, you know, is comprised of varying
8 environmental features from the old ag fields, the
9 forested stream valley, the associated flood plain
10 that you find with that, and we basically
11 preserved to the extent practical those
12 environmental features working within those
13 meadows that are currently filled with some
14 invasive Bradford Pears, working on the flat areas
15 to see what we can put in there.

16 And again, reinforcing that's the
17 valuable asset of the community. Through this
18 different zone we were able to have a little bit
19 of, the way I look at it, compact development to
20 preserve these items instead of having to justify
21 the impact of them.

22 Q And does that further advance or conform

1 the climate action plan that the county is
2 implementing or seeks to implement in your
3 opinion?

4 A Yeah. That's exactly right. Being able
5 to preserve any of the stream sections, the older
6 growth forests in the area, and building in the
7 areas that make sense, if they're hardwood or
8 invasives, taking that control out of there. We
9 do hit a lot of the categories of recommendation
10 within the climate change for this site which has
11 a very sensitive passive impact on the
12 environment.

13 MR. TEDESCO: Madam Examiner, those are
14 all the questions I have for Mr. Allison.

15 MADAM EXAMINER: Mr. Brown?

16 CROSS-EXAMINATION

17 BY MR. BROWN:

18 Q Mr. Allison, did I hear you a moment ago
19 mention that there were existing Bradford Pears on
20 this site?

21 A There are. They're an invasive species
22 that grow up -- they start almost like a pioneer

1 species in open meadows. They're spread by birds.

2 Q Right. I know it's premature but I did
3 not hear you say that the applicant was planning
4 to plant any Bradford Pears. Is that --

5 A No. No. We're not planting any.

6 Q All right.

7 A That's not part of the ecosystem.

8 Q Right. Right. Okay.

9 MR. BROWN: No questions. Thank you.

10 MADAM EXAMINER: I just have two, I
11 think. You were talking about the specimen trees.
12 Do you all already know that you may need a
13 variance to remove some under Subtitle 25 of our
14 code?

15 THE WITNESS: Yeah, we have identified
16 some trees that will be impacted. The number --
17 until we get into final grading and doing those
18 subsequent submittals, I don't have the number on
19 it, but we will have some specimen trees that are
20 going to be removed.

21 MADAM EXAMINER: The only reason I bring
22 that up is I want to make it clear in this record

1 that that's a variance from Subtitle 25, not the
2 zoning ordinance.

3 THE WITNESS: That's correct.

4 MADAM EXAMINER: And then the other one
5 is -- I'm sure someone else is going to address
6 this maybe from transportation but I gather that
7 there's an environmental reason for this as well.
8 You know there's a requirement that if there's
9 attached housing you should have two accesses from
10 Frank Tippett but you all are only doing one and
11 could you explain why that is from an
12 environmental impact, if you can?

13 THE WITNESS: I would have to defer on
14 why we're using one then two with two
15 (indiscernible).

16 MADAM EXAMINER: Okay. Thank you.

17 MR. TEDESCO: Thank you, Madam Examiner.
18 And we'll have -- I might have Mr. Leakan address
19 that or, actually, you know, I'll recall Mr. Howe.

20 Thank you, Mr. Allison.

21 MADAM EXAMINER: You're doing Mr. Howe
22 now?

1 MR. TEDESCO: Yeah. Let me just recall
2 him to address your comment.

3 MADAM EXAMINER: You're still under
4 oath.

5 THE WITNESS: Understood.

6 FURTHER DIRECT EXAMINATION

7 BY MR. TEDESCO:

8 Q Mr. Howe, did you hear Madam Examiner's
9 question with respect to the access?

10 A Yes, I did. To respond to that, I mean,
11 based on the limited frontage on Frank Tippett
12 Road we are proposing a single access there. The
13 access that we're proposing will contain a median
14 within just to have, you know, easy fire access
15 and access to Frank Tippett from both sides, but
16 there is one access from Frank Tippett.

17 Q So although -- let me just clarify. And
18 maybe I should have Ms. Gillette testify too but
19 I'm hoping you can address it. So with respect to
20 the fact that it's one access, it's a divided
21 access; is that correct?

22 A Correct. Proposed divided access, yes.

1 Q Okay. Thank you.

2 MR. TEDESCO: Madam Examiner, unless
3 there's any redirect or recross, that's all the
4 questions I have for Mr. Howe.

5 MADAM EXAMINER: I guess I just wanted
6 to make sure -- because this is such an all over
7 the place record, I wanted him or someone to talk
8 about Commo Road and why there's no access from
9 there, you know, just briefly. Is it Commo? Some
10 people say Common. If it's Common in the record,
11 that's still Commo?

12 MR. TEDESCO: Commo.

13 MADAM EXAMINER: Okay. Commo. Okay.

14 THE WITNESS: Sure. That would require
15 additional environmental impacts and, you know, at
16 least from my understanding, that road, it is
17 utilized for the county going back through there,
18 but that would require some pretty, we believe,
19 significant environmental impacts and grade
20 changes.

21 MADAM EXAMINER: If you're good with my
22 recross, Mr. Tedesco, I'm good.

1 MR. TEDESCO: Yeah. I would just state
2 for the record, Commo Road serves the county as
3 well as federal training facilities at the
4 terminus of Commo Road and is exclusive to that.
5 There is no other access to any other developments
6 along that road. This property was previously
7 subdivided in the early mid-2000s and no access
8 was approved at that time either to Commo Road.
9 It is arguably a public road maintained by the
10 county but my experience has been that access to
11 it is very restricted. Notwithstanding Mr.
12 Howe's testimony with respect to the environmental
13 impacts that would be associated with that added
14 connection.

15 Finally, we would call our last witness,
16 Mr. Leakan.

17 MATTHEW LEAKAN,
18 being first duly sworn or affirmed to testify to
19 the truth, the whole truth, and nothing but the
20 truth, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. TEDESCO:

1 Q Mr. Leakan, could you state your name
2 and address for the record, please?

3 A Sure. Matthew Leakan. Address, 1101
4 Mercantile Lane in Largo, Maryland.

5 Q And what is your occupation and who are
6 you employed by?

7 A I'm a landscape architect -- licensed
8 landscape architect. I'm a land planner. And I
9 am employed by Rogers Consulting, a
10 multidisciplinary planning, engineering, and
11 environmental consulting firm in -- well, we have
12 multiple offices. One in Largo, as I mentioned.
13 That's our local office. One in Germantown in
14 Montgomery County, Maryland. And then one in the
15 city of Frederick in Frederick County.

16 Q And how long have you been employed or
17 practiced in the field of land planning,
18 landscape architecture, and project management?

19 A Since 1998, the year I graduated.
20 That's my educational background. I got a
21 Bachelor of Science in Landscape Architecture
22 from an accredited university and have been

1 working in the field of land planning, landscape
2 architecture, and some civil consulting in a
3 multidisciplinary framework ever since then.

4 Q And are you a certified planner?

5 A I am a certified planner with American
6 Institute of Certified Planners. I'm also a
7 licensed landscape architect in the states of
8 Maryland and Virginia. My certification for
9 AICP, I've held that constantly without fail
10 since 2008, about 15 years.

11 MR. TEDESCO: And Madam Examiner,
12 Exhibit 25 is Mr. Leakan's CV.

13 Q Mr. Leakan, have you previously
14 qualified as an expert land planner in other
15 municipalities and quasi-examiner hearings?

16 A I have through Office of Zoning and
17 Administrative Hearings. That's the office of
18 the hearing examiner in Montgomery County. I
19 testified on behalf of a local map amendment
20 project. I believe that was about 180 acres.
21 It's called the Hanson property. Again, that was
22 a local map amendment.

1 I've also been accepted as an expert in
2 Montgomery County Circuit Court. That was an
3 imminent domain condemnation proceeding. Those
4 are the two big ones I've had as a landscape
5 architect.

6 I've been accepted as an expert for
7 Suburban Hospital. That was a conditional
8 use -- well, special exception then but now it's
9 called conditional use in Montgomery County for a
10 hospital in a single-family residential zone.

11 Q And have you ever previously qualified
12 as an expert land planner in Prince George's
13 County?

14 A I have not.

15 Q Have you ever previously requested to
16 be qualified as an expert land planner in Prince
17 George's County?

18 A I have not.

19 Q Have you ever been requested to testify
20 as an expert land planner or your qualification
21 denied to be qualified as an expert land planner
22 in any jurisdiction?

1 A Never.

2 MR. TEDESCO: Madam Examiner, Mr.
3 Leakan's CV is quite impressive as Exhibit 25
4 demonstrates. I have -- if there's additional
5 voir dire questions that are needed. If not, I
6 can defer to Mr. Brown if he has any follow up.
7 But we would ask that you accept Mr. Leakan as an
8 expert in the field of land planning based upon
9 his impressive CV and substantial qualifications
10 and previously being qualified before the hearing
11 examiner in Montgomery County as well as other
12 previous qualifications.

13 MADAM EXAMINER: Mr. Brown?

14 VOIR DIRE EXAMINATION

15 BY MR. BROWN:

16 Q Hello, Mr. Leakan. Just to clarify,
17 the prior qualifications in Montgomery County or
18 elsewhere, they were qualifications in the field
19 of land planning, not necessarily landscape
20 architecture; is that correct?

21 A That's correct. As stated, the
22 landscape architecture qualification was for, as

1 I stated, Suburban Hospital. The condemnation
2 case in the circuit court and the local map
3 amendment case were for certification of land
4 planning expertise.

5 Q And you were certified by the American
6 Institute of Certified Planners from 2008 until
7 the current time?

8 A That's correct.

9 Q As I recall, that organization
10 requires -- is it an exam or a payment? Is it
11 every two years or every five years?

12 A I believe it's every two that
13 changes -- their policy changes, but my
14 recollection is every two years. And yes, to
15 become certified there are prerequisites both in
16 terms of time of profession -- I think you have
17 to have letters of recommendation from
18 professionals under which you have worked closely
19 with for a period of time -- as well as
20 acknowledgement and study, very intense study
21 honestly, for several days to pass an
22 examination. And then further, once you become

1 certified, there's a series of continuing
2 education requirements to maintain your status as
3 a certified land planner.

4 Q And you've met those qualifications
5 since 2008, correct?

6 A That's correct.

7 MR. BROWN: I have no objection to Mr.
8 Leakan being qualified in the field of land
9 planning and landscape architecture.

10 MADAM EXAMINER: Oh, wait a minute.
11 Mr. Tedesco didn't want to go that far.

12 But, okay, we can accept you as an
13 expert in the area of landscape architecture and
14 I like to say land use planning.

15 MR. TEDESCO: You know, you've said
16 that before and I keep forgetting to add the word
17 use in there. I'm so sorry.

18 MADAM EXAMINER: There's no reason.
19 Land planning may be it but that keeps making me
20 think that, okay, over here there will be a hill,
21 over there there will be a street. I want to
22 hear about the uses.

1 So in any event, you are accepted as an
2 expert, sir.

3 THE WITNESS: Thank you.

4 MR. TEDESCO: Thank you, Madam
5 Examiner, and I will endeavor not to -- to make
6 sure we include land use planning going forward.

7 DIRECT EXAMINATION (Resumed)

8 BY MR. TEDESCO:

9 Q Mr. Leakan, are you familiar with the
10 property that's the subject of this hearing?

11 A I am.

12 Q And did you make a personal inspection
13 of the property?

14 A I have.

15 Q And when was the most recent site visit
16 that you made?

17 A Most recent site visit was yesterday,
18 the 8th, but I have driven past the site a number
19 of times, one of which for the purposes of doing
20 basic reconnaissance to get a sense of the
21 character of the neighborhood and so forth.

22 Q And because this zoning map amendment

1 is a request for a planned development zone
2 similarly to previously comprehensive design
3 zone, the determination or demarcation of the
4 neighborhood is not a requirement; is that
5 correct?

6 A That's right.

7 Q However, there are certain requirements
8 with respect to the request for rezoning as it
9 relates to, you know, ensuring no adverse impacts
10 of the adjoining properties and area; is that
11 correct?

12 A That as well as other overarching
13 policy parameters. That's correct.

14 Q Notwithstanding that, Mr. Leakan, could
15 you just maybe supplement or add to Ms. Gillette
16 and/or Mr. Howe's testimony as it relates to in
17 your expert land use planning experience and
18 opinion kind of the characteristics of this area
19 where the subject property is located?

20 A Yeah. If I may request the regional
21 exhibits. I believe there's two or three
22 exhibits that sort of go from regional to a more

1 local neighborhood character. So if I may be
2 indulged to discuss the region first.

3 MR. TEDESCO: Yeah. So Ms. Bah, could
4 you please pull up Exhibit 29? Maybe you could
5 pull that down. The subject property is in the
6 southern portion of the county. There you go.

7 THE WITNESS: Thank you very much.
8 That's fine.

9 A Yeah. So to start here, I know you
10 asked for the character of the neighborhood. I
11 think it's important -- again, consistent with
12 the hearing examiner's recommendation to talk
13 about land use, I think that this is a very
14 important map. This is the adopted map from the
15 2035 general plan, which the policy map, but
16 where it differs is that we have included -- if
17 you see that small triangular shaped object in
18 the middle of the screen, that is in fact the
19 generalized location of this application's
20 property limits, the Smith Lake Estates property.

21 And as you can see, it's located well
22 within the yellow wedge as defined by the

1 established community's growth policy area as
2 part of the general plan and it's also in that
3 sort of a tan or a brown color which is the
4 future water and sewer service area category. So
5 if we can go to the next exhibit, zooming in.

6 MR. TEDESCO: That would be Exhibit 28,
7 Ms. Bah.

8 THE WITNESS: I believe it's the master
9 plan limits.

10 MR. TEDESCO: That would be Exhibit 27.
11 Excuse me.

12 A And then secondly, what we've done here
13 is we've superimposed the property again on a
14 more zoomed in closeup of the planning area,
15 Subregion 6 Planning Area, 82A Rosaryville, which
16 is highlighted in yellow, and I believe we
17 have -- yeah, so there's the property again.
18 It's a very small piece allocated there but you
19 can see sort of the generalized location of the
20 property. So if we can zoom in further and get
21 to the neighborhood scale exhibit.

22 MR. TEDESCO: That would be Exhibit 28,

1 Ms. Bah.

2 THE WITNESS: Thank you very much.

3 A So this exhibit effectively takes our
4 environmental mapping and resource protection
5 areas as described by Mr. Allison and defines a
6 lot of what I consider to be, you know, the
7 immediate environ of the neighborhood -- that is
8 adjoiners, abutting, confronting, anything with
9 high visibility, et cetera -- and then looked at
10 those from a land use perspective prior to
11 undertaking, you know, more detailed land use
12 analysis in the form of a land use plan or a site
13 plan, et cetera.

14 And as Ms. Gillette noted, the clear
15 and major land use user in the vicinity is the
16 Cheltenham Youth Facility, very large,
17 predominantly open, but is improved with a number
18 of facilities to the south and to the west.

19 To the north tip it states fairly
20 conventional, suburban, single-family detached
21 neighborhood, approximately quarter-acre lots.
22 But if you'll notice, it has a very corrugated

1 edge to that neighborhood to Commo Road, similar
2 to the corrugated edge that we will have by
3 virtue of our environmental preservation along
4 Commo Road. There is a public nexus I think to
5 people utilizing Commo Road, not just for the
6 federal training facility. There is a wetlands
7 park as noted there. In fact, I took some
8 pictures of the carved -- what looked like a
9 beaver and a great heron out there. It was
10 pretty impressive. So it looked like it was a
11 well-used facility.

12 So there is a public nexus for people
13 to want to go down to that facility and that's an
14 important I think land use connection, as
15 described by Mr. Allison, specifically in terms
16 of green infrastructure policy and the use of
17 protective covenants and easements that this
18 project will provide specifically as it relates
19 to how it connects to that wetlands park. Even
20 though it's interceded or interrupted by the
21 road, I think it's still a very viable and
22 valuable public benefit.

1 You can see in the shaded areas on the
2 property, those are generally those areas that
3 are either wooded or vegetated. Some of them
4 nice vegetation, some of them not so much, as
5 described by Steve Allison relative to population
6 of invasive Bradford Pear tree species, et
7 cetera.

8 Open area, significant amount of open
9 area on the property where you can see the vast
10 majority of our land planning is focused. My
11 understanding is the past use of the property was
12 predominantly agricultural in nature.

13 And then of course the existing pond
14 facility which I found to be actually
15 qualitatively quite lovely. It had serenity that
16 was a very noted I think sense of privacy within
17 the interior of the project and I think a lot of
18 that is afforded by the fact that if you do look
19 at the environmental considerations on the
20 property, they effectively buffer the vast
21 majority of the project as it exists today
22 without any development, and of course those are

1 largely going to be implemented in the future
2 land development plan as well.

3 To the east Frank Tippett Road is
4 described. Our primary access point, vehicular
5 and pedestrian connection. Frank Tippett Road is
6 a master plan road with a future shared use
7 designation on there. So at some point in the
8 future that will be shared use transportation for
9 pedestrians and bicyclists, et cetera.

10 There is a small modicum of sidewalk on
11 the east side of Frank Tippett Road adjacent to
12 Terraco Acres which is the single-family detached
13 neighborhood to the east. Again, very consistent
14 in scale and form to what is proposed on our
15 project. Single-family detached housing
16 predominantly, if not exclusively. Front loaded,
17 meaning driveways off the public roads. And then
18 some larger more irregularly shaped parcels
19 immediately abutting to the south and east.

20 And as we go and talk about the actual
21 basic plan, we'll show you some of the
22 strategies, land use strategies that we are

1 implementing as a means of ensuring a compatible
2 and effective transition between this development
3 and those particular lots.

4 Q Mr. Leakan, are you familiar with the
5 zoning designation for this property prior to the
6 adoption of the countywide map amendment
7 implementation of the new zoning ordinance?

8 A I am and I always get them confused
9 because one is rural residential and the other is
10 residential rural, but they are effectively the
11 same zone. The zone is very what I call
12 Euclidian. That is a single use zone,
13 residential, with very what I would call large
14 development standards and intensity standards.
15 Meaning the lot sizes, for example, are quite
16 large. I believe the minimum lot area in the RR
17 zone under the basic parameter is about 20,000
18 square feet. It's about a half-acre lot. Those
19 are pretty large lots. Similarly, they have
20 significant yards, large yards.

21 And the density for that zone
22 interestingly is consistent with the

1 density -- actually, the density is far less than
2 what the general plan recommends. The general
3 plan recommends in the existing, I'm sorry, the
4 established communities and low density
5 residential land use designation about 3.5 units
6 per acre. The RR zone allows density of about
7 2.17 units per acre. So if you take the gross
8 area of 62.5 acres of the property, that equates
9 to approximately 130 dwelling units or 130 lots.

10 And I think what's really important
11 about understanding why we're doing an RPD zone
12 versus what is allowed in the base zone is design
13 flexibility to achieve compact development. The
14 reason is, number one, land development is
15 generally rectilinearly in nature. The property
16 is a triangle. Beyond that, the property has
17 higher public policy benefits for preservation on
18 environmental needs on the northern portion of
19 the property and so you have a very constrained
20 development area.

21 And so if one of the policy goals,
22 which it is, in the master plan is to create a

1 compact development so that we can achieve other
2 public policy benefits for open space, et cetera,
3 we need a smaller development footprint and so in
4 order to get the development footprint smaller
5 the RPD zone allows us to reduce -- and I can go
6 through and talk about that later in my
7 testimony, but generally speaking it allows us to
8 create a much more fine grained implementation of
9 land development in this neighborhood.

10 Q And before we turn to the actual design
11 standards, 27-3602, just generally speaking,
12 you're familiar with the Prince George's County
13 general plan adopted in 2014 referred to as Plan
14 35?

15 A I am and, you know, that's an
16 overarching policy document regarding, you know,
17 recommendations for development in Prince
18 George's County and, you know, sort of the chief
19 among those recommendations in that policy
20 document is what's been described thoroughly
21 today I think and that is the growth policy areas
22 and the growth policy map.

1 You know, the growth policy map is
2 important for Prince George's County in that it
3 establishes a framework for where and how the
4 county should grow and their predominant or
5 majority strategy there is to focus high density
6 intense development in and around transit served,
7 usually heavy rail transit served portions of the
8 county. Those are the regional transit
9 districts.

10 I believe there's -- I can't remember.
11 I think there's about eight of those. And those
12 are generally inside the Beltway adjacent to
13 Washington, D.C., but then they also recommend
14 local centers and those are important because
15 they create a tapering band of development
16 intensity from the inner core, which is adjacent
17 to D.C. inside the Beltway and sort of tapers out
18 to the margins.

19 The next areas are employment areas and
20 they have, you know, future water and sewer
21 service areas, as I described, but then they
22 have, and this is important, this is the existing

1 community's or established community's band and
2 that area is described as an area that is
3 suitable for low density infill and context
4 sensitive development. We haven't talked much
5 about context sensitive development here, and I
6 could probably bore you with a lot, but I will
7 touch on one or two items later about how this
8 meets the context sensitive design parameters
9 beyond the numbers of density, et cetera.

10 Beyond the established communities is
11 the rural and agricultural areas. Those are the
12 areas that the county has targeted for priority
13 preservation that are probably not suitable for
14 development given the lack of infrastructure
15 necessary to maintain and support that
16 development.

17 Q And we'll get into it in a little bit
18 greater detail as we get to further questions
19 with respect to actual decision standards, but in
20 addition to the general plan conformance,
21 familiarity with the applicable Subregion Master
22 Plan is important too. Are you familiar with the

1 applicable master plan for this area?

2 A I am.

3 Q And what master plan is that, do you
4 know?

5 A So this is Subregion 6 and we're in
6 area 82A Rosaryville. Colloquially -- and I
7 happen to know this because one of my coworkers'
8 family lives in the area as Cheltenham -- that
9 namesake is also taken on by a number of cultural
10 elements in and around the neighborhood,
11 especially the youth facility to the south.

12 Q And so --

13 A Yeah. So getting into some of
14 those -- I'm sorry. I can describe some. So the
15 2013 Subregion 6 Master Plan codifies or makes
16 again recommendations. Now, it's a little
17 different because that plan was adopted before
18 the general plan and so it references not
19 established communities but it references the,
20 quote/unquote, developing tier.

21 The developing tier is effectively
22 synonymous with established communities and on

1 page 40, I'm looking at my notes, it says it's a
2 residential low land use designation with up to
3 three-and-a-half dwelling units per acre,
4 primarily single-family detached dwellings of
5 which we are proposing.

6 Additionally, as Mr. Allison testified
7 to, recommendations for environment on page 68
8 and 69 is to protect the green infrastructure
9 network and regulated environmental resources for
10 the Piscataway Creek watershed of which we are
11 doing. Transportation systems on page 105, it
12 encourages compact development patterns. That's
13 in quotes on page 117.

14 And then on page 105 it describes the
15 provision of sidewalks and trails to promote a
16 walkable community and this is the one I think
17 that's really important that for me means a lot
18 to a community and that is the living areas and
19 community character. On page 177 it talks about
20 promoting an attractive and compatible
21 development especially from roads, end quote.

22 Page 178 talks about housing choices

1 are encouraged in the region. Page 179 describes
2 design features such as stormwater management
3 facilities so that they become amenities in the
4 development. That's a quote. And then page 179
5 is to provide green edges, woods and landscaping
6 in the new development to provide a buffer that
7 blends naturally.

8 And then finally, on page 179 the
9 recommendation or aspiration is to build high-
10 quality suburban development organized around a
11 network of open space with attention to site
12 design, and I believe that's precisely what this
13 plan embodies, and I don't believe that this plan
14 could be implemented in such a meaningful and
15 impactful layout if not were for the provision of
16 the flexibility afforded us in this optional RPD
17 zoning designation.

18 Q So that's a good segue and thank you
19 for that summary and tying that together. You
20 did have a chance to --

21 MADAM EXAMINER: Mr. Tedesco --

22 MR. TEDESCO: Yes, ma'am?

1 MADAM EXAMINER: -- I'm so sorry.
2 Since we're going to have a segue, I might need a
3 five-minute break. And before I go, I want to
4 ask a question and then the witness can come back
5 and explain it to me. But I noticed your
6 discussion of the 2000, what was it, 2002 general
7 plan, and staff talked about it also, and I'm
8 wondering are you all citing it because the 2014
9 was silent as to those policies or do you not
10 believe the 2014 -- what did the 2014 plan do as
11 to the old one? Is the old one out and the new
12 one in? Or are you saying that the new one was
13 silent as to these things and since the master
14 plan referenced them you're talking about it now?
15 Do you understand the question?

16 THE WITNESS: Yes, I do.

17 MADAM EXAMINER: And then don't answer.

18 THE WITNESS: Oh, okay. Yeah.

19 MADAM EXAMINER: Can we all take a
20 five-minute break?

21 THE WITNESS: Okay.

22 MADAM EXAMINER: Just, you know, turn

1 everything off and we'll be right back.

2 MR. TEDESCO: Yes. Just please
3 everybody mute.

4 (Off the record.)

5 MADAM EXAMINER: Okay. We are back on
6 the record.

7 BY MR. TEDESCO:

8 Q Mr. Leakan, do you recall Madam
9 Examiner's question before we broke?

10 A I do.

11 Q Would you like to address that?

12 A Yeah. I think that my opinion on the
13 matter relative to -- and hopefully I get this
14 correct, but the differences and/or apparent
15 paradox between a master plan being adopted and
16 then a general plan being adopted after the fact,
17 in my opinion, after having read both of those
18 documents and implemented a number of projects
19 under both of those documents, that many of them
20 really just share the same policy
21 recommendations, to be perfectly candid. You
22 know, compact development has been a longstanding

1 public policy goal for Prince George's County for
2 many years. I can't quantify exactly how long
3 but there's a number of documents that do that as
4 one example, for example. And then the
5 environmental, that's clearly been a longstanding
6 policy that's been, you know, codified in laws
7 throughout the county.

8 And so in my opinion what they do have
9 in common that stands out is their commitment to
10 existing communities for not just maintaining
11 existing communities but enhancing, and that's a
12 keyword that changed in the 2035 plan that I
13 think is really important, and I would go so far
14 as to say that this project does have a number of
15 public enhancements that I'll describe when I get
16 into the illustrative plan.

17 MR. TEDESCO: Madam Examiner, if I
18 could just further supplement Mr. Leakan's
19 testimony, I would just highlight the fact -- so,
20 no, it is not our position that the 2002 general
21 plan is applicable in the sense that the Plan
22 2035 superseded it, however the plan

1 administration section of Plan 2035 at page 270
2 provides, and I'll quote, All planning documents
3 which were duly adopted and approved prior to the
4 date of adoption of Plan 2035 shall remain in
5 full force and effect except for the designation
6 of centers, corridors, and centers -- excuse
7 me -- except for the designation of tiers,
8 corridors, and centers, until those plans are
9 revised or superseded by subsequent adopted and
10 approved local plans. Again, page 270 in the
11 plan administration section.

12 So there is somewhat of a paradox
13 between the two because we have a 2013 master
14 plan which is still in force and effect and a
15 2014 new general plan. Certainly the 2013 master
16 plan would have used terms and policy and
17 guidelines from the 2002 general plan. So I
18 think just the clarification of that between the
19 staff report is seeking to do that because one
20 deals with tiers and the other one got rid of the
21 tiers and deals with existing community. So I
22 hope that answers the question.

1 MADAM EXAMINER: Thank you. You both
2 helped a lot. Thank you.

3 MR. TEDESCO: You're welcome.

4 BY MR. TEDESCO:

5 Q Mr. Leakan, now turning your attention
6 to the decision standards specifically for this
7 application, Section 27-3602(c), kind of the bell
8 child of those standards as it relates to this
9 application is conformance with the general plan
10 area master plan and functional master plans.

11 MR. TEDESCO: Actually, strike that.
12 My apologies. Just real quick I want to clarify
13 Exhibit 2B. Forgive me, Madam Examiner.

14 Q Mr. Leakan, are you familiar with
15 Exhibit 2B, the justification statement that
16 amended the previous one, Exhibit 2A?

17 A That's correct. I am.

18 Q And did you review that?

19 A I have.

20 Q And did you sign that as an expert land
21 planner?

22 A I did.

1 Q And as it relates to your testimony
2 here today, in addition to everything to else
3 that you're going to verbally testify to, do you
4 incorporate and adopt as your testimony Exhibit
5 2B?

6 A I do.

7 Q Now turning your attention, forgive me,
8 to Section 27-3602(c) (1), the requested PD zone,
9 conformance with the general plan area master
10 plan, Item (c) (1). In your opinion, is the basic
11 plan and application in conformance with the Plan
12 2035 and the Subregion 6 Master Plan in any
13 function or otherwise?

14 A So for the general plan, yes, it is.
15 As described thoroughly throughout this
16 testimony, relative to the growth policy areas,
17 the land use designation, the recommended density
18 range of up to 3.5 dwelling units per acre, and
19 then the basic plan showing that we conform to
20 that by being significantly less. I believe 2.5
21 dwelling units per acre is our maximum, up to 150
22 total dwelling units meets that requirement.

1 There's a number of other
2 master -- general plan goals and objectives. I
3 think they had like eight categories. You know,
4 beyond what's already been described with green
5 infrastructure, which is a general plan item,
6 transportation and mobility. There's a
7 recommendation in the general plan and in the
8 master plan to improve multimodal travel for
9 pedestrians. That's a fancy way of saying give
10 them other opportunities other than a car.

11 Certainly with this development, which
12 is anticipated to be a blend of public and
13 private streets, those street standards are
14 required to have sidewalks within those
15 facilities as well as the open space and/or
16 pedestrian network that was described previously
17 by Ms. Gillette relative to the activated use,
18 the centralized pond and open space with trails
19 and bikeways.

20 Context sensitive design is another
21 goal. Clearly the context here is the
22 neighborhood and the context is the environment,

1 but I would argue it's even greater with the
2 pond. The pond I think is going to be a truly
3 meaningful experience. And again, I'll describe
4 that later as to why I think that and that's
5 going to get down to sort of site planning level
6 of detail.

7 Natural environment was spoken about,
8 improving and maintaining water quality through
9 stormwater management, preserving and enhancing
10 existing forest and tree canopy. Those are
11 master plan -- or general plan recommendations,
12 excuse me.

13 And the important one here as well, for
14 housing and neighborhoods goals and policy
15 recommendation, Plan 2035, is to expand housing
16 options including different types and diversity.
17 That I think is what the RPD sets apart from the
18 underlying RR zone in that the attached dwelling
19 unit type as well as the smaller lots and
20 everything, but the use, that use to be allowed
21 as a permissible permitted principal use is very
22 key and strategic for making this project I think

1 viable to achieve all these public policy
2 benefits.

3 Community heritage, culture, and
4 design. Again, this is kind of an important
5 thing for me personally and professionally. One
6 of those goals is described as orienting the
7 building frontages to the street. And if I could
8 be indulged now, if someone could pull up the
9 illustrative plan and I'll show you how this I
10 think is implemented on the actual land plan.
11 And while that's being pulled up I'll describe a
12 couple of other general plan goals.

13 Q Which exhibit did you want, Matt? I'm
14 sorry.

15 A There was an illustrative plan.
16 Illustrative plan or open space, either one of
17 those is fine.

18 MR. TEDESCO: Exhibit 23, Ms. Bah.

19 A So this is great. So I understand this
20 is, you know, a zoning application, it's really a
21 bubble plan, but I do think the illustrative plan
22 is informative because this is what we intend to

1 execute. And what I think is critical to
2 understand is the way in which, if you look at
3 the light blue units, those are the attached
4 units, and the purple and yellow units are the
5 detached units. We have --

6 MADAM EXAMINER: Can you make it a
7 little larger? I'm so sorry, sir. Just --

8 THE WITNESS: Uh-huh.

9 MADAM EXAMINER: Okay. All right. Go
10 ahead. I mean, do you need to see --

11 THE WITNESS: Yeah, just the main
12 entrance.

13 A So the big move here from an urban
14 design and cultural in character identity, I
15 think it can't be overstated, is the pond. The
16 pond is actually quite lovely. Yes, it will need
17 to be modified to meet current standards.
18 However, as an open space what we've done is if
19 you'll notice those single-family units on the
20 street, those are what we call single loaded
21 streets. Single loaded streets provide a number
22 of outstanding I think character building urban

1 design opportunities.

2 So basically the architecture -- and
3 this relates to the general plan item I just
4 described and that is to orient the building
5 frontages to the street. We've gone a step
6 further here in my opinion because not only have
7 we oriented those street frontages to the street
8 but when you first come into the community you'll
9 be looking over the pond at architectural fronts
10 beyond. So you're not going to be looking at
11 rears. And again, rears can be mitigated, but
12 the optimal choice, the choice that again we have
13 been able to get because of these RPD standards
14 is we can do these kinds of urban design things.

15 And in my opinion, anecdotally, what
16 the community feels, sees, and how the community
17 functions largely can be equated to success in
18 terms of how that plan is implemented and there's
19 a lot of public policy stuff that goes in beyond
20 that, but I think this is one of those items that
21 is really -- you know, unless you're really
22 familiar with what we're trying to achieve,

1 that's a really critical design element.

2 The other aspect that that allows us to
3 do, if you pan over to the east, and this is
4 important as well as it relates to compatibility
5 question -- and I know I'm jumping around a
6 little bit and I apologize because I do think the
7 land plan is a good one.

8 MR. TEDESCO: Hang on.

9 Fatima, could you pull over to the
10 right, or pull the right to the left, so we can
11 see the entrance on Frank Tippett to the right.
12 There you go.

13 THE WITNESS: Yeah. Thank you very
14 much.

15 A So you can see the attached units.
16 What we're doing is we're trying to insolate
17 those attached units with other single-family
18 dwelling units so that they're connected and
19 interconnected, as described by Ms. Gillette, in
20 our connectivity ratio which is fairly high, I
21 believe almost 1.6 ratio. So we create an
22 interconnected street network compact development

1 but we have like units facing along the public
2 thoroughfares. Where we can't do that, where the
3 attached units are abutting adjacent development,
4 we are going to have significant open space and
5 landscape buffering in order to ensure that
6 compatibility.

7 And since I'm talking about the
8 illustrative plan, I want to go back and talk
9 real quickly about -- there was a question about,
10 you know, how does this plan effectuate
11 compatibility and not -- I forget the exact term
12 as well too -- but harm the adjacent neighborhood
13 effectively and whether that open space will be
14 accessible to the public.

15 I would just like to offer that single-
16 family detached homes per this plan will be on
17 public roads. Those public roads will have
18 public sidewalks. And so to the extent that the
19 community can utilize this space either visually,
20 functionally, they will certainly have access by
21 definition to those sidewalk facilities and I
22 think that's really another important

1 characteristic.

2 And I'm sorry. I'm kind of going long.
3 There's a number of other general plan goals.
4 The master plan, I think I've provided, you know,
5 most of those criteria of how we comport by
6 stating the pages on which they're referenced.

7 Q Mr. Leakan, turning your attention to
8 Subsection (c)(2), the basic plan of requested
9 rezoning to PD meets the purposes of the proposed
10 PD zone, in this case RPD. We'll discuss at
11 length the purposes of the RPD zone, but just
12 generally speaking, in your opinion does this
13 application meet those purposes? And we'll go
14 into detail in a subsequent question, but
15 generally speaking --

16 A This is for the general purposes of the
17 planned development zone or for the RPD zone?

18 Q RPD zone.

19 A Yes, it does.

20 Q And we'll just put a pin in that for a
21 second. We'll hit on that in a second.

22 A Okay.

1 Q With respect to the applicable
2 standards of the proposed RPD zone, which is
3 Subsection (c) (3), do you have an opinion as far
4 as whether this application satisfies the
5 applicable standards of the RPD zone?

6 A It does. The development intensity
7 standards, I believe is the category under the
8 zone, are described on the basic plan as
9 previously testified to. Within those
10 development standards as shown on the basic plan,
11 density is expressed, lots and bulk are expressed
12 in terms of yard requirements, as well as
13 principal uses, the general location, et cetera.

14 Q And we're going to get to something
15 that Madam Examiner hit on the outset of this
16 hearing with respect to making sure we're citing
17 to these sections because there's a lot of kind
18 of overlapping to some of these things especially
19 as it relates to the purposes.

20 But just to conclude 3604(c) (1) through
21 (4), in your opinion will the application
22 proposed rezoning development adversely affect,

1 excuse me, adversely impact the surrounding
2 properties? I think that kind of gets to what
3 you were just testifying to with respect to the
4 Hearing Examiner's question regarding respecting
5 the characteristics of the surrounding area. Did
6 you want to just elaborate a little bit more on
7 that?

8 A Yeah. I think it's been hit on by a
9 number of experts today. But, no, I don't
10 believe this development will negatively or
11 adversely impact the surrounding properties for
12 the reasons of similar characteristics of the
13 land development. For example, we're not
14 proposing commercial development. We're
15 proposing residential development. We're
16 proposing residential development of an intensity
17 and scale consistent with the intensity and scale
18 of adjacent properties.

19 Further, the strategies that we've
20 employed to address the alternative or diversity
21 in housing types, the ability for us to
22 internalize those attached units within our

1 development and to provide buffers adjacent to
2 the community that we are abutting to helped
3 further mitigate any potential concerns to ensure
4 that the expected outcome of this development
5 will not adversely impact those communities or
6 those neighbors.

7 MR. TEDESCO: Now Madam Examiner, as
8 you know, and Mr. Brown, as you know, the zoning
9 ordinance requires an analysis with respect to
10 not only the general purposes of the planned
11 development zone, which is Section 27-4301(a),
12 but also an analysis of the purposes as it
13 relates to the chosen PD zone, which in this case
14 is the RPD zone, which is Section 27-4302(a)(1).

15 So in our justification statement we've
16 kind of clumped some things together because it
17 was just ease of going through all of those. The
18 planning board resolution breaks those out. So
19 Mr. Leakan and I both thought it was appropriate
20 given the resolution of the planning board to
21 break those out.

22 So we'll go through each of those

1 separately, the general as it relates to planned
2 development and then the specific as it relates
3 to the residential planned development.

4 Q So turning your attention, Mr. Leakan,
5 to Section 27-4301(a), the general purposes of
6 the planned development zone, are you familiar
7 with those?

8 A I am.

9 MR. TEDESCO: And there's a number of
10 those, Madam Examiner. We are certainly prepared
11 to go through each and every one of them if you
12 would like. Or if you would prefer Mr. Leakan
13 just to hit on a few high points. Whatever you -
14 -

15 MADAM EXAMINER: I just want -- I mean,
16 you can do it either way but just so you know,
17 what I don't think I've seen enough of is what's
18 the high-quality design amenities for the
19 housing?

20 MR. TEDESCO: What section are you
21 referring to exactly?

22 MADAM EXAMINER: So in 4301(a), general

1 purposes, they say design amenities. Now, I know
2 that you all are thinking of it as the land, but
3 when I read that along with the other section
4 that you'll get to, 4302(a)(1)(A), it's for all
5 of the residential planned development
6 zones -- no, it's for this one, the PD, to
7 provide flexibility for the design of innovative
8 high-quality planned residential communities. So
9 I guess I'm getting at I haven't heard enough
10 about what the houses are bringing to that area
11 versus I know it's a great idea environmentally
12 to do it this way but --

13 MR. TEDESCO: Well, that's part of it
14 because it's not the houses specifically because
15 we don't have architecture. It's how does
16 this -- again, not to -- I hope I'm not coming
17 across as argumentative, but it's how does this
18 basic plan, the land plan, with reducing the
19 inflexibility of the base zone create a
20 development scheme and plan that further advances
21 the policies of the master plan as well as the
22 zone itself?

1 And so there's been a lot of testimony
2 with respect to that from an environmental
3 standpoint, and Mr. Leakan was hitting on the
4 land planning perspective, the recreational
5 amenities which Ms. Gillette hit on, as well as
6 the consideration to improve the open space set
7 aside, as well as the improvements to the pond.

8 BY MR. TEDESCO:

9 Q But Mr. Leakan, would you like to hit
10 on more of that?

11 A Yeah. I think what's really important
12 to really discern what those benefits are, I
13 think you have to look at what the RR zone allows
14 and what that would produce. Okay. So if I have
15 an RR zone with a half-acre lot, I can assure you
16 getting an interconnected street network probably
17 not feasible given the shape and configuration of
18 the property. So there's a public policy benefit
19 there.

20 The consolidated interior open space
21 that we've provided with the pond with
22 architectural fronts facing it, that is directly

1 related to the design flexibility, the RPD zone,
2 for us to create these smaller yards. So
3 basically people are giving up their front yards
4 in a customary way. Okay. These aren't like
5 huge lots where people can go out and mow their
6 yards, you know, for days or whatever. These are
7 very small compact lots and people reallocate
8 that open space for a good public purpose. And
9 in this case that pond and the environ of that
10 pond, the way that it's strategically sited in my
11 opinion is directly afforded by the RPD zone.

12 Half-acre lots -- and I -- what was the
13 lot depth on that? I think -- so those were 80-
14 foot wide lots. Okay. We're proposing 53-foot
15 wide lots. That's a significant reduction that
16 allows us to reallocate that open space. To your
17 point, that detail is provided really at site
18 development plan when we program it, but if we
19 don't have that space allocated and there is no
20 space to design it, it doesn't happen.

21 So we've created I think a pallet and a
22 framework here with this land use discussion to

1 effectuate all of these things that otherwise
2 wouldn't normally occur under the base zone. We
3 have identified a few programmatic elements that
4 we do think are important, to your point, on what
5 are these great designs? And that really relates
6 to the lot and block design, the trail and
7 bikeway facilities, and what I consider to be a
8 fairly seamless integration of the environmental
9 areas with the urban design.

10 So typically on a land development
11 project you have these environmental resources.
12 Typically they're in the back. They're behind
13 the LOD. The only people who really get to use
14 and enjoy them are those people who own those
15 houses and those lots. This is I think a very
16 unique circumstance where we have the ability to
17 use design flexibility to put those environmental
18 areas front and center and literally become
19 incorporated into the lot and block design as you
20 first enter into the community and see this, you
21 know, wow factor, you know, this great design
22 feature as opposed to having lots surrounding it

1 and nobody gets to see it.

2 So it's a little -- it's design
3 creativity and flexibility on a land use scale.
4 The scale of detail in terms of form, finish of
5 the houses, as Matt Tedesco describes, that will
6 come subsequent to this. I hope I explained it
7 as best as I can. But that's effectively how I
8 consider -- you know, with that reallocation of
9 open space we basically have design flexibility
10 to do a lot of things, okay, whether that's
11 buffering from a neighborhood perspective,
12 amenities, and so on and so forth.

13 MADAM EXAMINER: And you mentioned
14 earlier about what people see. They'll see the
15 pond and the way the front will be oriented
16 toward the street. So you're getting there. I'm
17 just -- I'm just using the words that we decided
18 to put in this ordinance. The words have their
19 ordinary meaning.

20 THE WITNESS: Agreed, and that's always
21 a great balancing act to try to tease out the
22 best design you can understanding that we still

1 have to have, you know, Mr. Howe do engineering
2 and environmental planning come back and, you
3 know, basically facilitate a lot of other public
4 policy stuff that's in zoning and building code
5 and everything else. So I think this is a -- my
6 professional opinion is this is a great pallet
7 from which to work that I think gives us the best
8 opportunity to address these issues surrounding,
9 you know, adverse impacts and things of that
10 nature.

11 MADAM EXAMINER: Okay. And if I
12 may -- I don't know if everyone saw the chat but
13 the person that was interested in the hearing got
14 kicked out, so if someone could send her the link
15 again, that would be great. Thanks. Okay. You
16 can continue.

17 COURT REPORTER: She's back in.

18 MADAM EXAMINER: Oh, great. Okay.

19 MR. TEDESCO: And since we're on that,
20 I did put my full contact information in the chat
21 for Ms. Rosser if she needs it. At least it's
22 showing up on my end. So --

1 MADAM EXAMINER: We see it.

2 MR. TEDESCO: All right. So we're kind
3 of bouncing around a little bit and, you know,
4 part of the challenge of the hearing today, Madam
5 Examiner, in full disclosure, was hitting these
6 purposes as it relates from the general purposes
7 of the planned development zone, getting down to
8 the specific purposes of the actual residential
9 planned development zone.

10 BY MR. TEDESCO:

11 Q So in the interest of time, Mr. Leakan,
12 just in your opinion and as provided for in the
13 planning board's resolution and as well as our
14 justification statement, does this application
15 conform to the general purposes of planned
16 development zone Section 27-4301(a)?

17 A Yes, it does.

18 Q And are there -- just briefly, are
19 there any high points you just would like to
20 elicit in testimony just to hit those general
21 purposes real quick?

22 A I think that I've addressed the vast

1 majority with the discussion surrounding
2 flexibility of design standards to create a
3 compact development to afford us the ability to
4 provide all of the features as described in that
5 section of the zone.

6 Q And you've previously testified with
7 respect to the general standards of the Planned
8 Development Zone 4301(d); is that correct?

9 A Yes.

10 Q Turning your attention -- and I think
11 we do probably want to take a little bit of time
12 going through the specific purposes of the RPD
13 zone and I know we touched on (a) (1) (A) which was
14 elicited by the examiner with respect to
15 flexibility for the design of innovative high-
16 quality planned residential communities, a mix of
17 residential use types. Do we have a mix of
18 residential use types proposed?

19 A We do, detached and attached dwelling
20 units, residential dwelling unit.

21 Q (a) (1) (B), to ensure and support the
22 development of a comprehensive pedestrian bicycle

1 circulation network which are separated from
2 vehicular roadways and linked residential
3 commercial open space recreational areas.

4 A We do have that.

5 Q Do you have any thoughts on that?

6 A We do have that as well. As I say, the
7 customary and requisite pedestrian sidewalks that
8 will be provided along the public and private
9 roadways.

10 Q Do we plan to amenitize that public
11 feature or the high-quality feature of the pond?

12 A That's correct. The illustrative plan
13 shows preliminary designs for an activated use
14 such as a tot lot, sitting areas, potentially for
15 a boardwalk subject to engineering and
16 environmental permitting, et cetera.

17 You know, my gut is, again anecdotally,
18 the people in this neighborhood whether they've
19 gone and experienced this property or not know
20 there's a pond there and I think that this is a
21 very important design feature to bring into the
22 future. You know, whether this is the old

1 fishing hole or however people characterize it, I
2 do think it's a very important design element
3 that's effectively going to be -- and honestly,
4 it's a great marketing element as well for our
5 client.

6 Q (a) (1) (C), to preserve and support
7 well-integrated open spaces and recreation
8 facilities for the use of the residents of the
9 planned community.

10 A Yes, we have and it's specified beyond
11 the regulatory open space set asides that are a
12 requirement of the RPD zone. I concur with the
13 landscape architect testimony that in all
14 likelihood at time of site plan, detailed site
15 plan, we will likely have open space far in
16 excess of that minimum requirement.

17 Q (a) (1) (D), to ensure that the planned
18 residential community is developed in a manner
19 that does not adversely impact the surrounding
20 communities. I know we've spent a lot of time
21 talking about that. Any other concluding
22 thoughts on that particular purpose?

1 A I haven't spoken directly about any of
2 our woodland conservation planting requirements,
3 but certainly as part of our multidisciplinary
4 firm here the locations, the types of species,
5 and the character of what those woodland
6 conservation planting areas look like are going
7 to be integral to this requirement beyond the
8 environmental policy requirements of priority
9 planting areas.

10 Q (a) (1) (E), to ensure the planned
11 residential community respects the topographic
12 and other environmental characteristics of the
13 site. And I know Mr. Howe, Mr. Allison, and Ms.
14 Gillette testified to that, but from the land use
15 planning perspective, what are your thoughts on
16 conformance of that with the basic plan?

17 A I think the plan is evident to me that
18 we have optimized all of those open areas which
19 are generally the flattest areas topographically
20 speaking. They contain the least amount of
21 environmental resources and so by definition I
22 think that -- and through the flexibility of the

1 design standards to reduce our development
2 footprint, I think by definition, comparatively
3 speaking, if we were to do much larger RR lots we
4 would by definition consume more land which is
5 not as efficient or optimal as the zone requires.
6 So I think that absolutely the RPD far more
7 efficient use of land than the underlying RR
8 zone.

9 Q And as an expert land use planner, is
10 the proposed zoning and the uses and the density
11 in the basic plan for the subject property
12 appropriate in context of Plan 2035 and the
13 development of the surrounding neighborhood in
14 your opinion?

15 A It is and I've described those
16 calculations were less than 3.5 dwelling units
17 per acre or about 2.5 were clustered effectively,
18 consolidating open space with similar intensity
19 uses and scale as the surrounding neighborhood.
20 And I would like to say that technical staff at
21 Park and Planning and the planning board also
22 determined the same.

1 Q And just to conclude, two more
2 questions. In your expert opinion, would the
3 approval of the requested rezoning to the RPD
4 zone be in accordance with the principles and
5 guidelines of Plan 2035 and the Subregion 6
6 Master Plan?

7 A Yes, it would.

8 Q And would the approval of the
9 application encourage a coordinated, harmonious,
10 and systematic development of the area and the
11 county as a whole in your opinion?

12 A Yes, it would.

13 Q And could you elaborate a little bit
14 more on why you believe that?

15 A So again, I look at this from a
16 comparative perspective. I think that the county
17 is far better served using their own policies as
18 stipulated in Plan 2035 and in the master plan to
19 promote these types of compact development forms,
20 and those are well documented ranging from issues
21 surrounding environmental preservation, as
22 testified here, to efficient and cost effective

1 provision of public services such as schools,
2 public water/sewer service, and so forth.

3 I think that oftentimes these policy
4 documents do focus heavily on policy and perhaps
5 not as much on community and heritage, so I'm
6 happy to see that that was included in the Plan
7 2035. And I strongly believe that even though
8 this is a small project by most standards, I
9 think that the lot and block design, the
10 relationship of the streets, the sidewalk, the
11 architecture has created, as I stated previously,
12 an outstanding template and palette for which to
13 move forward and really execute a dynamic plan
14 that really I think meets the spirit if not
15 totally the letter of the 2035 general plan and
16 the 2013 Subregion 6 Master Plan and the general
17 purposes and the specific purposes of the RPD
18 zoning classification.

19 MR. TEDESCO: Madam Examiner, with that
20 we would submit and happy to provide closing
21 comments unless there's additional questions of
22 Mr. Leakan by Mr. Brown or by you.

1 MADAM EXAMINER: Mr. Brown? You're on
2 mute. Is he talking?

3 MR. TEDESCO: He said give him a
4 minute. It's not working.

5 MADAM EXAMINER: Okay. Thanks.

6 MR. BROWN: All right. Do you hear me
7 now?

8 MADAM EXAMINER: Yes.

9 MR. TEDESCO: Yes.

10 MR. BROWN: All right. None of my
11 buttons were working. I think Mr. Leakan didn't
12 want me to ask any questions. But just two or
13 three questions concerning compatibility.

14 THE WITNESS: Yes.

15 MR. BROWN: Betty, if you could put up
16 either Exhibit 28 or the last exhibit, the
17 illustrative plan that you had up there a moment
18 ago. And I just had one or two questions
19 concerning compatibility with the surrounding
20 neighborhood.

21 CROSS-EXAMINATION

22 BY MR. BROWN:

1 Q You testified that the detached units
2 would have approximately 53-foot wide lots,
3 correct?

4 A That's correct. Those are the minimum.

5 Q The minimum. And depending upon the
6 depth, my calculation would mean that those lots
7 would be a quarter-acre or less, correct?

8 A That's right.

9 Q And what would the proposed living area
10 square footage of the structures be given a
11 quarter-acre or less lot?

12 A I can't really speak to that only
13 because I don't have architecture, but that would
14 easily provide with the standards that we have as
15 a five-foot side yard on both sides. So you take
16 away 10 out of 53, that leaves you 43 feet.

17 What we see in the marketplace
18 throughout both Montgomery, Prince George's,
19 Charles County is a 40-foot wide single-family
20 detached house. I'm not -- I'm speculating that
21 that's what is going to be built here, okay, but
22 I do believe that it probably will be in that

1 general dimension, something like a 40-foot wide
2 house. I can't speak to how many square feet it
3 has because I don't know the product depth.

4 Q Yeah. I hear you. And so looking at
5 the single-family houses north of this site and
6 look like also northeast of this site, what are
7 the lot sizes of those properties, if you know
8 generally?

9 A I did a few test fits and they are
10 approximately a quarter-acre in size.

11 Q Okay. So this development would be
12 compatible at least to the north and northeast.
13 Now, I noticed in Exhibit 28, which was up
14 earlier, it showed the Cheltenham Youth Facility
15 to the south and it did not depict any structures
16 on that property and I'm sure -- I know there are
17 structures on the property.

18 In terms of compatibility, how is this
19 property compatible to the Cheltenham Youth
20 Facility? If anything, it's probably not
21 compatible in terms of the facility's impact on
22 this property, but just describe for me how you

1 look at that site.

2 A So -- thank you very much. So the way
3 we looked at that, as I described earlier, yes,
4 it's an improved site and that's a good
5 observation, but the nearest building is about
6 230 feet away. The closest real used area, as I
7 would call it, is there's a track and what looks
8 to be some sort of athletic court on the
9 southwest portion of our property. That also is
10 a fair significant distance away. I'm measuring
11 about almost 200 feet away.

12 And so in my estimation these future
13 residents of this neighborhood, yes, they're
14 going to be concerned about what goes on in that
15 facility in terms of it being an institutional
16 use. That being said, it looks like there is an
17 absolute ton of open space directly abutting this
18 neighborhood and so in fact that in my opinion
19 mitigates any potential buyer concern of our
20 future residents and is not unlike I think people
21 who live there today who have -- you know,
22 they've learned to live with the impacts of

1 however that facility operates, you know, in
2 terms of traffic and noise and things of that
3 nature. I would think 200 feet would mitigate,
4 you know, sight. It would mitigate noise. And
5 frankly, most of that margin is wooded as well,
6 so that helps.

7 Q And you adopted the -- I believe it was
8 Exhibit 2B, the revised justification statement.
9 You did not prepare a separate land planning
10 analysis, did you?

11 A I did not.

12 Q All right. But you are adopting the
13 justification statement planning analysis; is
14 that correct?

15 A That is correct.

16 Q You also testified that because this
17 site is triangular as opposed to rectilinear it
18 helps to develop this property in a compact
19 nature so you can take advantage of what I'm
20 going to describe as the environmental
21 constraints of the property around this lake,
22 correct?

1 A That's correct.

2 Q So you're basically telling me you
3 could not have prepared a traditional grid type
4 pattern on this site and come up with something
5 that is just as, from a land planning standpoint,
6 as nice as you have here?

7 A I don't believe so. And again,
8 anecdotally, my understanding is there were
9 previous or prior development applications on the
10 property attempting to do just that, that is
11 develop under the RR zoning standards, and my
12 awareness of that effort led us to assess the
13 total unit count for that project, which I
14 understand to be about 60 dwelling units.

15 So in my opinion it's self-evident at
16 least on the numbers that given the development
17 area and the efficiency of the flexibility in the
18 RPD zone to do smaller lots, I can achieve and
19 get more units achieving housing policy in the
20 county on a smaller development footprint and
21 create an interconnected series of roadways that
22 would be questionable.

1 I can't say definitively whether that
2 could be achieved or not because I haven't
3 actually seen a plan with that, but I can
4 visualize half-acre lots compared to 5300-square-
5 foot lots and how much bigger and bulkier those
6 are and how much more land they consume. So I
7 can reasonably expect that, no, I wouldn't be
8 able to achieve a plan with all of these great
9 public policy benefits with the underlying RR
10 zoning development standards.

11 Q And these small lots, single family,
12 which I believe you guys described earlier, at
13 least Mr. Tedesco did, as villas, does DR Horton
14 have any villas in other counties or in this
15 county that would be similar to what you
16 eventually propose here? I'm not trying to hold
17 you to that, but just trying to get an idea of
18 what those villas would look like.

19 A I'm sure they do. I don't readily have
20 any information. I know there are some planned
21 on other projects that we're working on so I
22 would have to defer to DR Horton to provide that

1 information.

2 Q I mean, I don't really need it now if
3 you don't already have it in the plans. I just
4 didn't see it. No other questions. Thank you.

5 A Thank you.

6 MADAM EXAMINER: Mr. Brown made me
7 think of one. So you do have to comply because
8 of the townhouses with the neighborhood
9 compatibility standards that talk about facades
10 and other things of that nature, correct?

11 THE WITNESS: That's correct.

12 MADAM EXAMINER: Okay. So that gives
13 us a little bit about the design of the building.

14 THE WITNESS: Uh-huh.

15 MADAM EXAMINER: And I don't think I
16 have anymore. Let's make sure. I think that's
17 it. Anything further, Mr. Tedesco?

18 MR. TEDESCO: Not for Mr. Leakan.
19 Thank you for his testimony. Mr. Brown, thank
20 you for your questions. We're ready -- I'm ready
21 to conclude if you are, Madam Examiner.

22 So with that I did want to just clarify

1 one thing for the record in response to one of
2 your questions with respect to the schools. We
3 did have an opportunity to look at the cluster
4 and my history is proven correct as we believe it
5 to be. Obviously always subject to change by the
6 county school system, but we believe and we
7 understand that the middle school for this
8 property would be James Madison and the high
9 school would be Frederick Douglas. I think you
10 had some questions about that from the staff
11 report so I just wanted to clarify that. That's
12 our understanding. Again --

13 MADAM EXAMINER: Thank you.

14 MR. TEDESCO: Yeah, obviously certainly
15 subject to change in the future by the Prince
16 George's County Public School System.

17 In conclusion, Madam Examiner, I want
18 to thank you and Mr. Brown and your staff for
19 your time and consideration. Well, actually, let
20 me stop. Should we ask Ms. Rosser if she has any
21 questions or anything just for clarity?

22 MADAM EXAMINER: Oh, you mean you want

1 to ask Ms. Rosser is she opposed?

2 MR. TEDESCO: Well, I just want to make

3 --

4 MADAM EXAMINER: Okay. Ms. Rosser.

5 MR. TEDESCO: -- sure if Ms. Rosser has

6 questions, we answer them. That's all. Whether

7 she's opposed or in support or --

8 MADAM EXAMINER: Okay. I'm just

9 following my rules of procedure though.

10 Ms. Rosser, just because you were here

11 the whole time and we have a little time left, do

12 you have any questions? Because usually you must

13 be opposed to ask questions, but do you have

14 anything you would like answered that you haven't

15 heard about?

16 MS. ROSSER: I did have a question.

17 And forgive me because I did join the hearing

18 late. Adjacent to my property, which is 10611

19 Frank Tippett Road, it sits right in the -- like

20 the right angle of the proposed subdivision.

21 What do the purple symbols on the map represent?

22 Are those townhouses or are those single-family

1 homes?

2 MR. TEDESCO: The purple is the
3 proposed pod for the attached product.

4 MADAM EXAMINER: Townhouses. Villas.
5 Did you say it's the attached product?

6 MR. TEDESCO: Yes, ma'am.

7 MADAM EXAMINER: Okay. So that's what
8 she's referring to as a townhouse, correct?

9 MR. TEDESCO: Well, customarily -- it
10 meets the definition of a townhome. We're
11 referring to them as villas because they're large
12 wider townhomes at 26 to 34 feet in width, two-
13 story villas for age in place that provide a
14 product type that's currently not really readily
15 available in the county. But they are attached,
16 yes.

17 MS. ROSSER: Okay. Thank you for that.
18 And I also wanted to get clarification on use of
19 the pond. Was that established later in the
20 hearing? I think it came up early and was going
21 to be addressed by someone.

22 MR. TEDESCO: As far as whether the

1 public would be able to utilize the pond. So the
2 access, we don't have an answer to that yet.
3 That will have to be determined at future phases
4 as far as maintenance and obligations. I mean,
5 we anticipate that will be maintained by
6 homeowners but it will also act as a stormwater
7 facility for the project so there will be some
8 county easement oversight over that, but there
9 will be public sidewalks along the public streets
10 that Mr. Leakan testified to with respect to
11 that, but we haven't determined the public
12 utilization of any amenities for that pond
13 facility.

14 MS. ROSSER: All right. Thank you for
15 that. Those were the only questions that I had.
16 Thank you so much.

17 MADAM EXAMINER: Okay. Don't leave
18 yet.

19 Mr. Tedesco, it might help to say this
20 as well. You'll have future -- if this is
21 approved you'll have to come back for future
22 approvals from primarily the planning board.

1 Would Ms. Rosser as being a person of record in
2 this case get any notice of those?

3 MR. TEDESCO: Yeah. Thank you, Madam
4 Examiner. So as attending this hearing today she
5 is a party of record to this application. It
6 will not automatically make her a party of record
7 to the aforementioned future applications which
8 will include a preliminary plan and subdivision
9 as well as a detailed site plan because of the
10 attached product.

11 However, because she's a party of
12 record for this case she will be listed on all
13 future informational mailings that go out for
14 those future cases and at that time in order to
15 be a party of record for those specific cases she
16 would have to re-register to be a party of record
17 in those cases. But she will receive notice,
18 one, as a party of record, and two, as an
19 adjoining property owner.

20 MS. ROSSER: Thank you for the
21 clarification.

22 MR. TEDESCO: Yes, ma'am. My pleasure.

1 So with that, thank you, Madam
2 Examiner. Just wanted to make sure we closed the
3 loop on that. Given the current political
4 climate it's always important to make sure we
5 hear from our citizens.

6 MADAM EXAMINER: I'm so sorry. Matt,
7 Matt, Mr. Tedesco, one other question based
8 on -- you just made me think of this. Just so
9 people are aware when they see this transcript or
10 maybe see this hearing down the road, also if
11 this is approved and that basic plan is approved
12 and people purchase the homes, what happens if
13 they do want an accessory building on the site?
14 You all are saying there are no accessory
15 buildings. Under this new code will they have to
16 come in for a basic plan revision or how will
17 that be addressed once folks are in the homes?

18 MR. TEDESCO: Unless you provide in
19 your recommendation flexibility for that,
20 currently we had not contemplated that. That's a
21 good observation. You certainly in your
22 recommendation to the district council could ask

1 for that to be included on the basic plan as a
2 note with respect to the ability to provide those
3 accommodations that would not require a basic
4 plan amendment in the future, but I think as it
5 stands now -- and again, we're all kind of
6 getting familiar with these new PD zones and
7 basic plans. Applying what we've known for 20
8 years, I would think that without that provision
9 by you at the time of certification or approval
10 of this it would require an amendment, I believe.
11 But I'm happy to look into that and provide
12 additional information.

13 MS. GILLETTE: Can I make one note
14 please?

15 MR. TEDESCO: Yeah, go ahead.

16 MS. GILLETTE: I believe in our
17 statement of justification we do address the one
18 finding about accessory structures such as sheds,
19 detached garages and such, and we were not
20 looking for a modification to those sort of
21 standard possibility elements.

22 MADAM EXAMINER: That's what made me

1 think of it, Ms. Gillette.

2 MR. BROWN: But Madam Examiner, you
3 were not referring to accessory structures. You
4 were referring to such as community buildings,
5 were you not?

6 MADAM EXAMINER: Actually, any change.
7 And Ms. Gillette is correct, I read that and
8 that's what made me think of it and being caddy-
9 cornered to the board of appeals, I know how
10 often down the road folks have come with other
11 comprehensive design zones and tried to get
12 variances, et cetera, and couldn't do it. So --

13 MR. TEDESCO: Well, I would certainly
14 allow my expert witness who prepared the plan to
15 supplement my responses, as she did. So I
16 appreciate that. And reminding her she was still
17 under oath when she made that statement, Madam
18 Examiner.

19 MADAM EXAMINER: Yes, she was.

20 MR. TEDESCO: All right. I think at
21 this point I would really much like to conclude.
22 So in conclusion, again, thank you Mr. Brown and

1 Madam Examiner and your staff. Again, this
2 was -- this is the very first planned development
3 rezoning application in the county. We are all
4 working through the new zoning ordinance together
5 and certainly appreciate our witnesses and their
6 expert opinions and thoughts as well as the
7 applicant's desire to bring this application
8 forward in utilization of the new zoning
9 ordinance.

10 We do believe that you will find and
11 have heard today substantial evidence in the
12 record that in particular Sections 27-4301(d) as
13 well as 27-4302(a) have been met. The
14 application is consistent with the -- and
15 furthers the goals, policies, and visions of the
16 Subregion 6 Master Plan and Plan 2035, the county
17 general plan. It proposes densities consistent
18 with the recommended residential low land use of
19 the master plan, and the proposed single-family
20 detached and attached product are similar in
21 character to the surrounding communities and are
22 context sensitive as prescribed by Plan 2035 for

1 properties in the established community's growth
2 policy area.

3 For all of the reasons that you've
4 heard today as well as the voluminous record in
5 this case, we would respectfully request the
6 approval of Zoning Map Amendment 2022-003 and
7 with that we would submit. Thank you, Madam
8 Examiner.

9 MADAM EXAMINER: Thank you. Thank you
10 everyone for coming and have a good day.

11 (Off the record.)

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I, Debra McCostlin, do hereby certify that the foregoing pages, to the best of my ability, are a true and correct transcription from the official electronic sound recording and annotations of the proceeding taken on August 9, 2023 in the above-entitled matter; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no interest, financial or otherwise, in its outcome.

Debra McCostlin

DEBRA MCCOSTLIN
AUGUST 20, 2023

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