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Transcript of Recorded Hearing

Date: August 30, 2023

Case: SE-4856-AC 23002 - ESC 9401 WESTPHALIA, LC

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

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In re:

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SE 4856 AC 23002 ESC 9401 WESTPHALIA LLC

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RECORDED HEARING

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Wednesday, August 30, 2023

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Job No.: 506234

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Pages: 1 - 131

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Transcribed by: Jennifer Candela-Alvarez

1 RECORDING: Recording in progress.

2 HEARING EXAMINER MCNEIL: Thank

3 you all. So where we left off --

4 Ms. McCall, I believe you have some
5 exhibits that you want to introduce, and
6 I'm going to try to pull them up when it
7 comes time for you to testify, and you'll
8 have to explain what they are; and then, if
9 there's no objection, they'll also become
10 part of the record. Okay.

11 So, Mr. Biase, you may start the
12 hearing.

13 VINCE BIASE: Thank you,
14 Madam Examiner. We would call Ms. Victoria
15 Ballesteros.

16 HEARING EXAMINER MCNEIL:

17 Ms. Ballesteros, you're still -- no. You
18 may not be under oath. I'm trying to
19 remember.

20 Do you swear or affirm, under the
21 penalties of perjury, that the testimony
22 you shall give will be the truth and

1 nothing but the truth?

2 VICTORIA BALLESTEROS: I do.

3 HEARING EXAMINER MCNEIL: Okay.

4 EXAMINATION

5 BY VINCE BIASE:

6 Q Okay. Good morning,
7 Ms. Ballesteros. Can you please state your
8 full name and business address for the
9 record?

10 A Victoria Ballesteros, 9500 Medical
11 Center Drive, Suite 370, Largo, Maryland,
12 20774.

13 Q And where are you currently
14 employed?

15 A I am employed at ATCS PLC, which
16 does business as ATCS.

17 Q What is your current position with
18 ATCS?

19 A I am a vice president and
20 operations manager.

21 Q What are some of your duties in
22 your current role as a vice president and

1 operations manager at ATCS?

2 A In 2018, I was hired at ATCS to
3 open our Largo office. Though the company
4 has had a presence in Maryland since opening
5 in 1994, there was desire to open a Largo
6 office to better serve our Metro Maryland
7 clients.

8 I opened the Lagoe office in
9 January of 2019 and have been responsible
10 for managing the office since that time. In
11 my role as vice president and operations
12 manager, I manage a team of engineers,
13 engineers-in-training, designers, land
14 surveyors, and subconsultants to engineer
15 and entitle land development projects in
16 Prince George's County and surrounding Metro
17 Maryland counties.

18 I'm responsible for project
19 management, quality control management,
20 client and contract management, and on some
21 projects I'm the engineer of record.

22 Q And are you a licensed engineer in

1 the state of Maryland? And, if so, how long
2 have you been licensed as a professional
3 engineer?

4 A I am a licensed engineer in the
5 state of Maryland. I sat for the
6 professional engineering exam in Arlington,
7 Virginia, in spring 2018 and earned my
8 license in Virginia in June of that year. I
9 applied for reciprocity in Maryland and
10 earned my license in Maryland in September
11 of 2018. I have been continuously licensed
12 in both Virginia and Maryland since 2018.

13 Q And can you please briefly
14 describe your educational background?

15 A My formal education includes a
16 bachelor's of science in civil engineering
17 from Clarkson University and a master's of
18 business administration, also from Clarkson
19 University. As required by the Code of
20 Maryland Regulations, I also participate in
21 annual continuing education to retain my
22 professional licensure.

1 Q Is Exhibit 72, in the ZHE's
2 updated record, a copy of your resume? And,
3 if so, does it accurately reflect your
4 educational background and professional
5 experience?

6 A Yes, that is my resume, and it
7 accurately reflects my education and
8 professional experience as a professional
9 engineer.

10 Q In your role as a professional
11 engineer, your resume describes extensive
12 experience working in the state of Maryland.
13 Can you speak to some of your experience as
14 a professional engineer within the state of
15 Maryland and specifically Prince George's
16 County?

17 A Sure. I first began interning in
18 Maryland land development engineering in
19 2009. In 2012, I began working in Maryland
20 land development engineering part time, and
21 I began working in Maryland land development
22 engineering full time in 2014. I was

1 licensed in Maryland in 2018 and have been
2 working in the state as a licensed
3 professional engineer since that time.

4 In that time, I've worked on
5 dozens of projects all over Maryland, in
6 Baltimore County, Baltimore City, Anne
7 Arundel, Montgomery, Frederick, Prince
8 George's, Charles Cecil Calvert, and also in
9 Washington, D.C. and Virginia.

10 Since opening ATCS's office, I've
11 been the project manager, engineer of
12 record, and quality control manager for a
13 number of residential, mixed use,
14 commercial, industrial, and institutional
15 projects in Prince George's County.

16 My responsibilities have included
17 performing and overseeing land development
18 engineering work, including planning, site
19 layouts, wet utility design, roadway design,
20 site grading, and drainage design as well as
21 stormwater management design and modeling,
22 erosion and sediment control design, bond

1 estimates, permit processing, scheduling,
2 construction documents, entitlements, and
3 multidisciplinary coordination.

4 Relevant to my familiarity with
5 the Alexander property and this project, I
6 am the project manager and engineer of
7 record for the Heppe property and for the
8 Spirit of God Deliverance Church property
9 which both front Westphalia Road and
10 neighbor the Alexander Property to the west.

11 Q In your role as a professional
12 engineer, your resume also describes
13 experience offering and preparing civil
14 engineering plans that are associated with
15 development applications. Are these plans
16 typically relied on by various state,
17 county, municipal, and/or federal agencies
18 in issuing permits for the development of
19 real property?

20 A Yes. The plans I have prepared
21 have been approved by various government
22 agencies for the development of property.

1 Q And have you ever qualified as an
2 expert witness before any court or
3 administrative agency in your professional
4 career?

5 A I have not previously qualified as
6 an expert witness before any court or
7 administrative agency.

8 Madam Examiner, at this time we
9 would move to have Ms. Ballesteros qualified
10 as an expert witness in the field of civil
11 engineering for this hearing.

12 HEARING EXAMINER MCNEIL:

13 Mr. Brown, do you have any questions?

14 ANDREW BROWN: Yes. One or two.

15 VOIR DIRE

16 Good morning, Ms. Ballesteros.

17 How are you?

18 VICTORIA BALLESTEROS: I'm great,
19 thank you. Good morning.

20 ANDREW BROWN: Good. I have
21 reviewed your resume, which is what, 10 or
22 11, 12, 13 pages? And just some of the

1 basic questions are -- ATCS. What does that
2 acronym stand for?

3 VICTORIA BALLESTEROS: It stands
4 for A Total Consulting Service. It was
5 going to be TCS, but when the company opened
6 in 1994, phone books were still relevant; so
7 the founders put an A in front of TCS so
8 that they would come up first in the phone
9 book.

10 ANDREW BROWN: Okay. That's basic
11 enough. And looking at your resume, you've
12 got a master's of business administration
13 from Clarkson University and a bachelor of
14 science and civil engineering.

15 Any other educational
16 accomplishments other than those two?

17 VICTORIA BALLESTEROS: No. No,
18 sir. Those are the two degrees that I hold.

19 ANDREW BROWN: The educational
20 requirements for maintaining your license in
21 the state of Maryland and Virginia -- what
22 are those educational requirements if any?

1 VICTORIA BALLESTEROS: In
2 Maryland, folks are required to complete
3 eight hours of continuing education
4 annually; and in Virginia, it's 12 hours.

5 ANDREW BROWN: And you have taken
6 those courses; correct?

7 VICTORIA BALLESTEROS: Yes, sir.
8 We have to certify to that when we renew our
9 license every two years.

10 ANDREW BROWN: You also testified
11 a moment ago that you've never been
12 qualified in the field in which you're
13 being proffered today. Have you ever
14 sought to be qualified --

15 What was it, Mr. Biase, you're
16 proffering her as? Civil --

17 VINCE BIASE: Civil engineering.

18 ANDREW BROWN: Civil engineering.

19 Have you ever sought to be
20 qualified as a civil engineer in any case,
21 administrative or judicial, prior to today?

22 VICTORIA BALLESTEROS: I have not

1 sought to be qualified in any case prior to
2 today.

3 ANDREW BROWN: I'm just curious.
4 Why not?

5 VICTORIA BALLESTEROS: I haven't
6 had the opportunity even though I've worked
7 on various site plans for development
8 applications similar to this one.

9 ANDREW BROWN: And you are the
10 engineer of record on this case?

11 VICTORIA BALLESTEROS: I am not
12 the engineer of record. Andrew Brown, who
13 is a project manager that reports directly
14 to me, is the engineer of record on this
15 case.

16 ANDREW BROWN: So the Statement of
17 Justification in support of a variance for
18 the removal of specimen trees which was
19 apparently electronically signed by you --
20 who prepared that document?

21 VICTORIA BALLESTEROS: I prepared
22 the Statement of Justification for the

1 variance of specimen trees.

2 ANDREW BROWN: And that's
3 something you plan to testify on today?

4 VICTORIA BALLESTEROS: Yes, sir.

5 ANDREW BROWN: The Alexander
6 Landing Special Exception Statement of
7 Justification -- which, in my copy, it's
8 not signed by anyone, but as I recall at
9 the last hearing, you had some role in
10 preparing that.

11 Who prepared the Alexander Landing
12 Special Exception Statement of
13 Justification?

14 VICTORIA BALLESTEROS: The
15 Statement of Justification was prepared, to
16 my understanding, by the offices of
17 CL Hatcher, and I reviewed that document.

18 ANDREW BROWN: All right. But
19 that was not prepared by you; correct?

20 VICTORIA BALLESTEROS: Correct.

21 ANDREW BROWN: And in a document
22 filed over the last week concerning Special

1 Exception 4856, Alexander Landing,
2 applicant's response to People's Zoning
3 Council, there is a comment in here that
4 you plan to address. I will read it on the
5 last page.

6 Any relevant conclusions of law
7 that Park and Planning Environmental
8 Planning staff has supported.

9 You don't plan to testify on any
10 conclusions of law, do you?

11 VICTORIA BALLESTEROS: I do not.

12 ANDREW BROWN: I don't have any
13 objection to Ms. Ballesteros being accepted
14 as an expert in the field of civil
15 engineering, but I just want to qualify she
16 is not being offered as an expert in land
17 planning, nor is she a legal expert.

18 And so her testimony, I think,
19 Madam Examiner, should be limited to the
20 field of civil engineering in which she is
21 being proffered.

22 HEARING EXAMINER MCNEIL: I agree.

1 And she will be accepted as an expert in
2 the area of civil engineering.

3 VINCE BIASE: Thank you,
4 Madam Examiner.

5 BY VINCE BIASE:

6 Q Ms. Ballesteros, are you familiar
7 with the property which is the subject of
8 this application?

9 A I am familiar with it.

10 Q And did the applicant engage you
11 to prepare the site plan for this special
12 exception application?

13 A Yes. I was engaged to prepare the
14 site plan and all related civil engineering
15 plans.

16 Q Are you familiar with the
17 necessary requirements for preparation of a
18 special exception site plan?

19 A Yes, I am familiar with the
20 requirements for preparation of a special
21 exception site plan as described in
22 Subtitle 27, Part IV, of the Prince

1 George's County Code.

2 Q And are you familiar with the
3 Prince George's County Environmental
4 Technical Manual?

5 A Yes, I'm familiar with the Prince
6 George's County Environmental Technical
7 Manual.

8 Q Do you participate in the planning
9 and engineering design capacity of this
10 application as well?

11 A Yes, I participated in the
12 planning and engineering design capacity of
13 the site plan and special exception
14 application. Ms. and Mr. Alexander's
15 relative, Ms. Rochelle Brown (phonetic),
16 emailed me in December of 2020 regarding
17 the Alexander's property.

18 In January 2021, I introduced the
19 Alexander's to Mr. Burke, and in March 2021,
20 I laid out a schematic sketch for the Age
21 Restricted Villa Project using GIS data.
22 The plan was drafted by an engineer-in-

1 training in my office.

2 Through spring 20- -- spring and
3 summer of 2021, the layout was refined as
4 we obtained land surveying data and
5 environmental data from the Natural
6 Resources Inventory. By fall of 2021, the
7 layout that is included in this application
8 was largely conceived. The layout included
9 feedback that we received from meetings
10 that the applicant and I and other folks on
11 my team had with Park and Planning Staff,
12 WSSC, and DPIE. Findings from the Natural
13 Resources Inventory and field run
14 topography greatly influenced the layout
15 that you -- is included in this
16 application.

17 The biggest influences were to
18 prioritize the preservation of specimen
19 trees along the southern property line and
20 to avoid impacts to the pocket wetlands on
21 the southeast property corner rather than
22 pushing lots and development to the

1 perimeter of the site, which is how the site
2 was originally laid out, based on GIS
3 topography.

4 The site is configured to be
5 further north and is a much more compact
6 design to cluster development along
7 Westphalia Road and preserve environmental
8 features along the southern property lines.

9 In January 2022, I began
10 coordination with the consulting team,
11 including Dave Nelson regarding the special
12 exception application for this project, and
13 in February 2022, I mailed notices for the
14 special exception and Specimen Tree Variance
15 Request.

16 I oversaw the development of the
17 site development concept plan for the
18 application, which was submitted in March
19 2022 and later that month the first special
20 exception draft plan and Specimen Tree
21 Variance Requests were -- and the Statement
22 of Justification were mailed, through the

1 project, to the project team, and those
2 documents were directly prepared by me or
3 under my professional supervision.

4 Shortly thereafter, Mr. Andrew
5 Brown, who is also a professional engineer
6 and a project manager on my team, took over
7 the day-to-day project management of the
8 engineering and entitlements for the
9 project. I've continued to remain involved
10 with the project as a quality control
11 manager, reviewing plans, reports, and
12 supporting documents for engineering and
13 entitlements' applications and participating
14 in meetings with the applicant,
15 subconsultants, and applicable review
16 agencies as requested.

17 Q Are you familiar with the required
18 findings for approval of a variance from the
19 Prince George's County Woodland Conservation
20 Ordinance?

21 A Yes, I am familiar with the
22 required findings for a variance from the

1 Woodland Conservation Ordinance. An
2 applicant may request a variance from the
3 Woodland Conservation Ordinance as part of
4 the review of a TCP or owing to special
5 features of the site or other circumstances,
6 implementation of the ordinance would result
7 in unwarranted hardship to an applicant.

8 Q And I know you just mentioned your
9 involvement in the project, but just for the
10 record, are any waivers or variances for
11 impacts to regulated environmental features
12 associated with this special exception
13 application?

14 A Yes. The applicant has requested
15 a variance from Section 25-122(b)(1)(G) of
16 the Prince George's County Woodland
17 Conservation Ordinance for the removal of 25
18 on-site specimen trees.

19 Q What environmental preservation,
20 restoration, and/or mitigation strategies
21 are employed with this application?

22 A Per the Environmental Technical

1 Manual, regulated environmental features are
2 to be preserved in and/or restored to a
3 natural state to the fullest extent
4 possible. The determination of fullest
5 extent possible, as described in the
6 Environmental Technical Manual, is a
7 three-step process that starts with
8 avoidance, minimization, and mitigation.

9 As I described, the site layout
10 has incorporated the idea of avoidance as
11 we've clustered development closer to
12 Westphalia Road to avoid conflict with
13 specimen trees on the southern property
14 lines, and we've also met extensively with
15 the Environmental Planning section to
16 discuss, you know, how we can further avoid
17 impacts to specimen trees and how, where we
18 do have impacts, we can minimize those
19 impacts.

20 Q And just for the record, again,
21 did you prepare the Statement of
22 Justification in support of a variance from

1 Subtitle 25 for the removal of specimen
2 trees which is included as Exhibit 3?

3 A Yes, I prepared the Letter of
4 Justification.

5 Q And can you please speak to how
6 the Statement of Justification, in support
7 of the variance, was prepared and what
8 specific criteria was analyzed?

9 A I evaluated the subject property
10 special exception site plan and the
11 TCP2-006-2023 against the applicable
12 requirements outlined in the Prince George's
13 County Zoning Ordinance, the Environmenta
14 Technical Manual, and Woodland Conservation
15 Ordinance.

16 In drafting the Statement of
17 Justification, I specifically analyzed the
18 criteria for approval of a variance from the
19 Woodland Conservation Ordinance which
20 require that special conditions peculiar to
21 the property have caused the unwarranted
22 hardship; enforcement of these rules will

1 deprive the applicant of rights commonly
2 enjoyed by others in similar areas;
3 granting the variance will not confer on the
4 applicant a special privilege that would be
5 denied to other applicants; the request is
6 not based on conditions or circumstances
7 which are the result of the actions by the
8 applicant; the request does not arise from a
9 condition relating to land or building use,
10 either permitted or nonconforming on a
11 neighboring property; and granting the
12 variance will not adversely affect water
13 quality.

14 Q Do you -- do you further
15 incorporate and adopt, as your testimony
16 here today, that Letter of Justification?

17 A Yes, I do.

18 Q Does the Maryland-National Capital
19 Park and Planning Commission's Environmental
20 Planning staff and Development Review staff
21 support the Statement of Justification in
22 support of a variance from Subtitle 25?

1 A Yes. EPS and Development Review
2 support the request for the removal of
3 on-site specimen trees. Technical staff
4 supported the removal of 23 of the 25
5 requested specimen trees, finding that the
6 steep slopes and the isolated wetland
7 restrict the development envelope which are
8 special conditions peculiar to the property.
9 The locations of the trees proposed to be
10 removed would deprive the applicant of the
11 extent of use of the developable area of the
12 property for a permitted use, which is
13 commonly enjoyed by others; that other
14 applicants with properties with similar
15 circumstances would be similarly considered;
16 that the request is solely based on the
17 locations of the trees; that the request
18 does not arise from conditions of
19 neighboring properties; and that the
20 granting variance will not adversely affect
21 water quality.

22 You know, however, for specimen

1 trees 7 and 41, staff suggested a deferral
2 of their evaluation until future development
3 review with a preliminary plan of
4 subdivision. It's important to note that
5 specimen tree 41 was originally proposed to
6 be preserved in our original TCP2 submittal.

7 At the time, staff was skeptical that it
8 could be saved, and we ultimately changed it
9 to be removed, and we have correspondence
10 back and forth with staff discussing this.

11 In my expert opinion, the
12 recommendation of holding off on these two
13 trees might be problematic because the
14 special exception site plan represents the
15 plan on which permits must be based. If
16 further evaluation of the two trees requires
17 adjustments of improvements, the special
18 exception site plan would not -- would need
19 to be revised.

20 I believe it might be possible to
21 save the two trees in question. Specimen
22 tree 7 isn't in development areas. It's

1 along the property line. It does have
2 substantial critical root zone impacts
3 proposed. We have proposed it as being to
4 be removed because of the condition that
5 was noted in the Natural Resources
6 Inventory of that tree.

7 Specimen tree 41 may also be able
8 to be retained, but due to off-site
9 topographic conditions, we are proposing
10 that it be removed. I would recommend that
11 the requested variance for the removal of
12 all 25 trees be approved with this special
13 exception application. This action allows
14 for their ultimate removal, if that proves
15 appropriate, but would also still allow
16 future revisions of the Tree Conservation
17 Plan which could be accomplished at a staff
18 level or by the Planning Board as
19 appropriate to the stage of future
20 development review. This would allow for
21 preserving the trees if the future
22 evaluation deems that they are definitively

1 savable without requiring adjustment of the
2 improvements on the special exception site
3 plan.

4 Q And given your involvement in
5 preparing the Statement of Justification in
6 support of a variance from Subtitle 25, have
7 you reviewed the Tree Conservation Plan Type
8 2, TCP2-006-2023, associated with the
9 subject application?

10 A Yes, I have reviewed and
11 extensively analyzed TCP2-006-2023.

12 Q And in your capacity as an expert
13 in civil engineering, does the proposed site
14 plan conform with the Type 2 Tree
15 Conservation Plan?

16 A Yes, the proposed site plan
17 conforms with the TCP2.

18 Q Did you assist in preparing the
19 Letter of Justification for impacts to
20 environmental features which is included as
21 Exhibit 45 in this matter?

22 A Yes, I assisted in preparing the

1 Letter of Justification through a review of
2 the letter.

3 Q And do you further incorporate and
4 adopt, as your testimony here today, that
5 Letter of Justification?

6 A Yes, I do.

7 Q In your capacity as an expert in
8 civil engineering, does the proposed site
9 plan demonstrate the preservation and/or
10 restoration of the regulated environmental
11 features on site in a natural state to the
12 fullest extent possible?

13 A Yes, the proposed site plan
14 demonstrates the preservation and/or
15 restoration of the regulated environmental
16 features on site in a natural state to the
17 fullest extent possible. Looking at the
18 tree conservation plan, the specimen trees
19 that are preserved and retained in Woodland
20 Preservation areas along the southern
21 property line are very extensive.

22 The pocket wetlands that are on

1 the southeast corner of the site are not
2 impacted at all because of the design being
3 clustered around Westphalia Road and, where
4 possible, you know, additional reforestation
5 has been proposed on site and, you know,
6 impacts for specimen trees -- and impacts to
7 specimen trees and the wetland buffer have
8 been limited to that which is required for
9 stormwater management outfall and utility
10 crossings.

11 Q Have you reviewed the applicant's
12 Statement of Justification for approval of a
13 special exception which is identified as
14 Exhibit 4?

15 A Yes, I have reviewed the Statement
16 of Justification. Do you further
17 incorporate and adopt as your testimony here
18 today that Statement of Justification?

19 A Yes, I do.

20 Q Are you familiar with the
21 Technical Staff Report as amended by
22 Development Review Staff's April 19th

1 clarifying memo?

2 A Yes, I am.

3 Q And do you agree with technical --
4 the Technical Staff Report's findings of
5 fact and proposed conditions of approval as
6 amended by Development Review Staff's April
7 19th clarifying memo?

8 A Yes, I do.

9 Q In your capacity as an expert in
10 civil engineering, will the approval of this
11 application cause any adverse impact upon
12 the adjacent properties or surrounding
13 neighborhood?

14 A No, it will not.

15 Q And in your capacity as an expert
16 in civil engineering, will the approval of
17 this application have any detrimental effect
18 on the health, safety, or welfare of
19 residents in the surrounding neighborhood?

20 A No, it will not.

21 VINCE BIASE: Thank you,
22 Ms. Ballesteros.

1 Those are all the questions we
2 have for Ms. Ballesteros, Madam Examiner.

3 HEARING EXAMINER MCNEIL: Before I
4 turn to People's Zoning Council, I wanted to
5 point out the same issue occurred with the
6 tree conservation plan. We did have it as
7 Exhibit 670, I believe --

8 VINCE BIASE: I think it was --

9 HEARING EXAMINER MCNEIL: -- and
10 now it's Exhibit 76. I just wanted to
11 clarify that for the record.

12 VINCE BIASE: Yeah. I think it
13 was 69 in --

14 HEARING EXAMINER MCNEIL: 69,
15 right. And now it's --

16 VINCE BIASE: -- the August 2nd
17 hearing.

18 HEARING EXAMINER MCNEIL: -- 76.

19 And, Ms. Ballesteros, I just
20 have one quick question. And mine is are
21 you familiar with Section 25-119(d)(2) which
22 requires that a notice of this variance be

1 sent to the State Department of Natural
2 Resources? And are you familiar with
3 staff's letter to me about that, dated June
4 13th? Are you familiar with either of
5 those?

6 THE WITNESS: I am familiar with
7 the section of code referenced. I'm not
8 familiar with staff's letter that was
9 submitted to you.

10 HEARING EXAMINER MCNEIL: Well,
11 staff's letter says that that is not
12 enforced by the department -- by the state
13 department. And I just wondered. Has that
14 been your experience with these variance
15 requests that we don't send them anymore to
16 the state? Because I guess the state was
17 overcome with so many variances to look at.

18 THE WITNESS: Yes, that is my
19 understanding.

20 HEARING EXAMINER MCNEIL: Okay.

21 Mr. Brown, do you have any
22 questions?

1 ANDREW BROWN: Just two or three.

2 Ms. Ballesteros, what is the
3 acreage of this property? Is it 10 plus
4 acres?

5 THE WITNESS: It is 10.00 acres.

6 ANDREW BROWN: And the
7 neighborhood that was identified in the
8 Special Exception Justification Statement -
9 - have you generally reviewed that
10 neighborhood in terms of its acreage of the
11 various lots?

12 THE WITNESS: I'm not sure I
13 understand the question. Could you
14 rephrase that, please?

15 ANDREW BROWN: Sure. Absolutely.
16 In this particular neighborhood, a
17 neighborhood is required to be identified
18 in any special exception to determine
19 whether or not there's an adverse impact to
20 other properties in the neighborhood
21 identified. So my question to you is --
22 this property is approximately 10 acres

1 and, on average, the other properties
2 within the identified neighborhood, if you
3 know, range in what acreage? From one acre
4 to five acres? One acre to ten acres?
5 What do you think? Or have you evaluated
6 it?

7 THE WITNESS: I, transparently, do
8 not know what the average acreage is of
9 surrounding properties. As I mentioned,
10 the property that abuts the Alexander
11 property directly to the west is owned by
12 the Spirit of God Deliverance Church which
13 is also a client of ours.

14 I know that to the north of
15 Westphalia Road on the opposite side of the
16 street from the Alexanders, there are
17 several single-family detached homes, and I
18 know that there's also a property owned by
19 another church on the north side of
20 Westphalia Road.

21 To the east of the property -- you
22 know, I've walked around the Alexander

1 property pretty extensively -- there are
2 also single-family detached houses.

3 To the southeast of the property,
4 there is a really nice Park and Planning
5 park.

6 And then to the southwest of the
7 Alexander's property, there is a forest
8 conservation area -- excuse me -- woodland
9 conservation area that's associated with
10 the development of the Smith Home Farm
11 property.

12 ANDREW BROWN: All of those
13 properties are similar to this property in
14 the sense that they have steep slopes. And
15 I'll just actually read from your request
16 for the variance for removal of the
17 specimen trees.

18 You cite on page 4 as a basis for
19 the request for the variance in terms of
20 special features. You say, This property
21 has unique environmental conditions, i
22 parenthetical, steep slopes and wetlands

1 for this property. Correct?

2 THE WITNESS: Correct.

3 ANDREW BROWN: And properties in
4 the neighborhood also have steep slopes and
5 wetlands. Is that not correct?

6 THE WITNESS: I have not performed
7 a Natural Resources Inventory or an
8 extensive site visit of adjacent
9 properties. I have walked around the
10 public park that's to the south of the
11 property, and there are, like, flat open
12 ball fields there. I've also walked in the
13 woodland conservation area that's to the
14 southwest which includes tributary and
15 steep slopes.

16 ANDREW BROWN: I understand you
17 say you haven't walked other properties in
18 the neighborhood, but in order to justify a
19 variance -- your comment here is that it
20 has unique environmental conditions.
21 Uniqueness is a comparative analysis; that
22 is, this property is unique compared to

1 other properties in the neighborhood. So
2 if you haven't reviewed other properties in
3 the neighborhood for the conditions you've
4 identified -- steep slopes and wetlands --
5 how can you conclude this property is
6 unique?

7 THE WITNESS: Based on -- excuse
8 me -- GIS topography of the neighboring
9 properties --

10 ANDREW BROWN: Well, that's --

11 THE WITNESS: -- they may --

12 ANDREW BROWN: -- that's what I'm
13 asking about. I'm not trying to trick you.

14 THE WITNESS: Oh, no.

15 ANDREW BROWN: That's what I you
16 want to tell me is that, based on the GIS
17 topography, you have identified other
18 properties in the neighborhood that also
19 have steep slopes and wetlands. Is that
20 not correct?

21 THE WITNESS: The neighboring
22 properties, to my knowledge, do not have

1 the same pocket wetlands that are
2 identified on the Alexanders' property.

3 And, again, the slopes -- the steep slopes
4 that may occur and are depicted in GIS
5 topography in the neighboring development
6 that's to the east -- they are draining to
7 existing storm networks that are in the
8 right-of-ways that are east of the property
9 versus the Alexanders' steep slopes which
10 are ultimately draining to a tributary
11 that's south of the property.

12 ANDREW BROWN: And concerning
13 these unique topographical conditions, you
14 also indicate this property has a unique
15 shape as, I'm going to assume, comparison
16 to other properties in the neighborhood; is
17 that correct?

18 THE WITNESS: Correct.

19 ANDREW BROWN: You also conclude
20 on page 4, the last paragraph, The
21 applicant would be denied reasonable and
22 significant use of the property due to the

1 unique features of the site.

2 What is the zoning for the
3 property?

4 THE WITNESS: The zoning is RR,
5 rural residential.

6 ANDREW BROWN: Are there not other
7 uses permitted in the RR zone that could be
8 constructed within the same developable
9 envelope on this property other than the
10 use proposed?

11 THE WITNESS: There are other uses
12 that can be developed.

13 ANDREW BROWN: The only other
14 question I had -- I guess not just a
15 question but clarification, Mr. Biase --

16 And I apologize, Mr. Biase. Is it
17 Viase or Biase?

18 VINCE BIASE: Biase.

19 ANDREW BROWN: Biase. My
20 apologies.

21 He asked you whether or not you
22 adopted, as your testimony, the Statement

1 of Justification document. That document
2 is primarily a land planning document, not
3 a civil engineering document. So you do
4 not adopt that as your testimony, but as an
5 expert, you have reviewed it and relied
6 upon it to reach the conclusions you have
7 as an expert in civil engineering. Is that
8 correct?

9 THE WITNESS: Correct.

10 ANDREW BROWN: No other questions.
11 Thank you.

12 HEARING EXAMINER MCNEIL: Thanks.
13 Is anyone here that's opposed to this
14 request -- do any of you have questions of
15 Ms. Ballesteros?

16 WANDA COLLINS: I do. Can you
17 hear me?

18 HEARING EXAMINER MCNEIL: Yes.
19 Can you come on camera, Ms. Collins?

20 WANDA COLLINS: Sure. Sorry about
21 that. Okay.

22 HEARING EXAMINER MCNEIL: Okay.

1 Go ahead.

2 WANDA COLLINS: So I just have one
3 question. The GIS data -- the -- did it
4 cover just the Alexander project? Or did
5 it cover the area of Westphalia Road that's
6 associated with this project?

7 THE WITNESS: The GIS data, which
8 comes from Prince George's County,
9 encompasses the entirety of the county.

10 WANDA COLLINS: Okay. So was
11 anything taken into consideration that the
12 -- my project -- my property started being
13 destroyed when Parkside was being built.
14 And now if you come up my driveway to the
15 right, the trees are falling. They're
16 dead. There's animals in there, and I see
17 them every day. Now I'm on the verge of
18 destruction, and I don't think that anybody
19 has taken any of this into consideration --
20 what everybody else is going through right
21 now in this area.

22 ANDREW BROWN: Ms. Collins, right

1 now it's time for questions, not testimony.
2 I don't think she can respond to your
3 statement.

4 WANDA COLLINS: No problem.

5 ANDREW BROWN: Thank you.

6 HEARING EXAMINER MCNEIL: I'm
7 sorry, Ms. Collins. Thank you.

8 Okay. Thank you, Ms. Ballesteros.
9 Unless -- Mr. Biase, did you have redirect?

10 VINCE BIASE: No redirect for
11 Ms. Ballesteros.

12 HEARING EXAMINER MCNEIL: Okay.
13 Thank you.

14 VINCE BIASE: We would call
15 Mr. Devin Leary next.

16 HEARING EXAMINER MCNEIL:
17 Mr. Leary, do you swear or affirm, under
18 the penalties of perjury, that the
19 testimony you shall give will be the truth
20 and nothing but the truth?

21 DEVIN LEARY: Yes, I do.

22 EXAMINATION

1 BY VINCE BIASE:

2 Q Good morning, Mr. Leary.

3 A Good morning. How are you?

4 Q I'm doing well. How are you?

5 A Good. Fine.

6 Q Can you please state your full
7 name and business address for the record?

8 A Sure. Good morning, everyone.
9 It's Devin Leary. I'm with Human & Rohde
10 landscape Architects. We're at 512 Virginia
11 Avenue, Towson, Maryland, 21286.

12 Q And are you currently employed by
13 Human & Rohde?

14 A Yes, I am.

15 Q What's your position with Human &
16 Rohde?

17 A So I am a vice president of the
18 company, and I am a licensed landscape
19 architect and also run our Environmental
20 Planning Division.

21 Q Can you briefly describe some of
22 your professional duties associated with

1 that position?

2 A Sure. So I manage a range of
3 projects -- commercial, residential,
4 institutional, both traditional landscape
5 architecture and then also environmental
6 planning compliance with Forest Conservation
7 Act or Woodland Conservation Ordinance. I'm
8 also with, you know, wetland and waterway
9 permitting.

10 Q Is Exhibit 71, in the ZHE's
11 updated record, a copy of your resume? And,
12 if so, does it accurately reflect your
13 educational background and professional
14 experience?

15 A Yes, that is my resume, and it
16 does accurately represent my background and
17 experience.

18 Q Are you familiar with the property
19 which is the subject of this application?

20 A Yes, I am.

21 Q Are you familiar with the
22 necessary requirements for preparation of a

1 Tree Conservation Plan Type 2.

2 A I -- yes, I am. I've prepared
3 several in the past, and I was obviously
4 involved with the preparation of this plan.

5 It was prepared by me. But, yes, it's
6 basically following Section 25 of the county
7 code and then also guidance from the
8 Environmental Technical Manual.

9 Q And did you prepare the Tree
10 Conservation Plan Type 2, TCP2-006-2023,
11 associated with the subject application?

12 A Yes, I did.

13 VINCE BIASE: Madam Examiner, ca
14 we please show the updated TCP2 to which is
15 identified as Exhibit 76?

16 HEARING EXAMINER MCNEIL: Ms. Bah
17 will pull it up. Exhibit 76.

18 VINCE BIASE: Thank you.

19 And, Ms. Bah, I believe this is
20 included in binder two.

21 HEARING EXAMINER MCNEIL: Okay.

22 We -- Ms. Bah is having issues with her

1 computer.

2 So, Ms. Rawlings, do you think
3 you'd be able to pull up Exhibit 76?

4 MS. RAWLINGS: Can you see my
5 screen?

6 VINCE BIASE: Not yet.

7 MS. RAWLINGS: Can you see it now?

8 VINCE BIASE: I can't see it on my
9 end.

10 HEARING EXAMINER MCNEIL: And I
11 only see your name come up.

12 MS. RAWLINGS: Okay. Let me try
13 it again, advanced sharing.

14 VINCE BIASE: Madam Examiner, we
15 just wanted to walk through the TCP2 and
16 the location of on-site regulated
17 environmental features and the specimen
18 trees. If there are tech issues, it might
19 be possible to describe their location
20 generally.

21 MS. RAWLINGS: Yeah. I'm trying
22 to share my screen, and it's not working.

1 HEARING EXAMINER MCNEIL: Are you
2 able to make Mr. Biase an -- whatever we
3 call you -- administrator and see if he can
4 pull it up?

5 MS. RAWLINGS: I can make him a
6 co-host.

7 HEARING EXAMINER MCNEIL: Do you
8 think you can try, Mr. Biasi?

9 VINCE BIASE: Yes.

10 HEARING EXAMINER MCNEIL: Okay.

11 VINCE BIASE: I can try to pull it
12 up here.

13 MS. RAWLINGS: I'm not sure why
14 it's not working.

15 VINCE BIASE: Mr. Leary, are you
16 able to see my screen?

17 DEVIN LEARY: Well, I could see it
18 for a second. Now it went blank.

19 VINCE BIASE: It's blank again?

20 DEVIN LEARY: Oh, there it is.
21 Oh.

22 HEARING EXAMINER MCNEIL: I see

1 your screen.

2 DEVIN LEARY: Interesting. It's
3 cutting in and out.

4 VINCE BIASE: Let me see if I zoom
5 in a bit. Is it still cutting in and out?

6 DEVIN LEARY: Not -- yeah.

7 VINCE BIASE: I'll try to reshare
8 it.

9 DEVIN LEARY: I think -- yeah. I
10 think we might have been good. So, yeah,
11 go ahead and reshare it, and think we got
12 it.

13 VINCE BIASE: All right.

14 DEVIN LEARY: This always works so
15 seamlessly until you get in the moment.

16 VINCE BIASE: That's right.

17 BY VINCE BIASE:

18 Q Well, if you're -- if you're able
19 to see the screen, can you please
20 demonstrate generally the location of on-
21 site regulated environmental features and
22 specimen trees?

1 A Yes. And thank you for bringing
2 the plan up. So just generally, I'll walk
3 through the site. To the north, or the top
4 of the page, is Westphalia Road. So as you
5 work south -- oh, I lost it again, but it's
6 back.

7 So as you work south, obviously we
8 have the cluster development and then --
9 bear with me. I lost it again. Okay. As
10 you move to the south -- so we have
11 obviously the units -- the cluster units
12 developments, and then towards the bottom
13 of the page, which is the south, you can
14 start to see -- and it's a little hard to
15 read. There's a lot on this plan. There
16 are circles, and some of them have X's in
17 them. Some of them are kind of shaded out.
18 Those are the specimen trees.

19 And as you can see, there's
20 numerous specimen trees kind of spread
21 across the site. However, they are
22 concentrated along that southern property

1 line. So there's certainly a higher
2 density in those locations.

3 We also have -- if you can pan a
4 little bit to the south fence, Mr. Biase.
5 Thank you.

6 Q How's that?

7 A Yeah. I think that's fine. So as
8 you go off site to the south -- and this is
9 if you're looking at the plan to the left-
10 hand side -- there is a small tributary
11 stream which is off site of our property,
12 and there is an associated buffer with that
13 stream or a PMA which is -- which is also
14 off site. So we have that.

15 And then as you move to the right
16 or the east of the site -- if you could pan
17 over. Thank you. So in the southeastern
18 corner of the site, we have a small area of
19 isolated nontidal wetlands, and those drain
20 to the south to the park property and --
21 which is essentially where you see the
22 trail that extends to that off-site park.

1 So we have, you know, we have, you
2 know, clusters of specimen trees on site.
3 We have the small isolated nontidal
4 wetlands, and then we have the off-site
5 first order stream system.

6 Q Thank you. And to your knowledge,
7 did the TCP2 change or go through several
8 iterations prior to acceptance with this
9 special exception application?

10 A Yes, it did. So the plan was
11 amended to retain additional woodland
12 conservation area and specimen trees in the
13 southwest corner of the property. So if you
14 can pan back Over to the other side. Thank
15 you. So this area here, in my opinion, is
16 really the highest value of forest on site.
17 You can see there's a really high density of
18 specimen trees along the property line.

19 And then, also, as I discussed
20 earlier, we have the stream, which is off
21 site to the south of us. Now the forest
22 continues off site, and that area is within

1 an existing woodland conservation easement.
2 So we are essentially adding area to that
3 existing easement area. And it's an
4 important -- it's important to retain
5 forest around these water resources.

6 So the plan was amended to retain
7 more forests and limit impacts to specimen
8 trees within this area.

9 Q And to your knowledge, has the
10 TCP2 been updated since the Planning Board's
11 transmittal of the special exception to the
12 zoning hearing examiner?

13 A Yes. There were some minor
14 revisions to address staff comments. One of
15 them was to -- as you can see, there's a lot
16 going on on this plan -- was just
17 readability, get these specimen trees a
18 little more legible on the plan. So that
19 was one of the comments.

20 We had to add a note about the
21 woodland conservation easements being
22 dedicated to the county as part of the

1 process. That has to be completed prior to
2 permits. And then, also, we needed to add
3 a note to reference the specimen tree
4 variance which was requested.

5 Q And are you familiar with the
6 updated site plan associated with this
7 special exception which is identified as
8 Exhibit 77-A through H.

9 A Yes, I am.

10 Q And, in your opinion, does the
11 proposed site plan conform with the Type 2
12 tree conservation plan?

13 A Yes, it does.

14 Q Are you familiar with the required
15 findings for approval of a variance from the
16 Prince George's County Woodland Conservation
17 Ordinance?

18 A Yes, I'm familiar.

19 Q And are you familiar with the
20 Prince George's County Environmental
21 Technical Manual?

22 A Yes, I am.

1 Q Are any waivers or variances for
2 impacts to regulated environmental features
3 associated with the subject special
4 exception application?

5 A Yes. There is a variance request
6 from Section 25-122 requesting removal of
7 specimen trees on site.

8 Q And to your knowledge, what
9 environmental preservation, restoration,
10 and/or mitigation strategies are employed
11 with this application?

12 A So as I previously discussed, it's
13 the -- the environmental features on site
14 are, you know, are obviously what we want to
15 limit or minimize or avoid impacts to. And
16 so that is the small area of nontidal
17 wetlands at the southeast corner which we
18 are not impacting.

19 And then we also have the off-site
20 stream, which the PMA does not extend onto
21 our site, but we are retaining additional
22 forest adjacent to it.

1 Q Have you reviewed the Statement of
2 Justification in support of a variance from
3 Subtitle 25 for the removal of specimen
4 trees which is included as Exhibit 3?

5 A I have reviewed that request, yes.

6 Q Have you reviewed the Letter of
7 Justification for impacts to environmental
8 features which is included as Exhibit 45?

9 A Yes, I did review that request or
10 that letter.

11 Q Does the proposed site plan
12 demonstrate the preservation and/or
13 restoration of the regulated environmental
14 features on site, in a natural state, to the
15 fullest extent possible?

16 A It does. So the environmental
17 features are not impacted. The only --
18 again, if you can pan over to the -- to the
19 right again. Thank you. So the only
20 minimal impacts is associated with the sewer
21 connection which extends -- it essentially
22 follows the trail that goes to the park.

1 And so that sewer extension will
2 have some temporary impacts for the
3 installation of the sewer to the 25-foot
4 nontidal wetland buffer. It's very
5 minimal, but we're -- we need to -- sorry.
6 The screen keeps cutting out; so that's why
7 I'm a little jumbled. But the story is
8 they connect to the off-site existing sewer
9 that's offsite to the south.

10 Q And have you reviewed the
11 applicant's Statement of Justification for
12 approval of a special exception which is
13 identified as Exhibit 4?

14 A Yes, I have.

15 Q Are you familiar with the
16 Technical Staff Report as amended by
17 Development Review Staff's April 19th
18 clarifying memo?

19 A Yes, I am.

20 Q And do you agree with the
21 Technical Staff Report's findings of fact
22 and proposed conditions of approval as

1 amended by Development Review Staff's April
2 19th clarifying memo?

3 A I do agree.

4 VINCE BIASE: Thank you,
5 Mr. Leary.

6 Those are all the questions we
7 have, Madam Examiner.

8 THE WITNESS: Thank you.

9 HEARING EXAMINER MCNEIL:

10 Mr. Leary, do you -- did you hear the
11 question that was not really a question
12 from Ms. -- I apologize -- Ms. Collins?
13 And what I'm really asking is what
14 protections are occurring along Westphalia
15 Road that should preclude any impact on
16 adjacent or nearby property owners? It
17 looks like this land is draining down
18 toward the back, right? Toward the south?

19 THE WITNESS: It is.

20 HEARING EXAMINER MCNEIL: I mean,
21 not draining down, but the topography is
22 going lower to the south?

1 THE WITNESS: Yeah. So the
2 existing and the proposed topography will
3 drain from Westphalia Road to the south.

4 HEARING EXAMINER MCNEIL: So --

5 THE WITNESS: So you'll note --
6 you'll notice that the proposed stormwater
7 management facility is in the -- kind of
8 the central south location of the site.
9 That -- that's where our stormwater will be
10 draining to.

11 HEARING EXAMINER MCNEIL: Do --

12 THE WITNESS: So it is managed on
13 site.

14 HEARING EXAMINER MCNEIL: So you
15 don't -- do you anticipate any water
16 problems to the north from this
17 construction?

18 THE WITNESS: In my opinion, I do
19 not anticipate any impacts, no.

20 HEARING EXAMINER MCNEIL: Okay.

21 And People's Zoning Council, if you could
22 wait just one second.

1 Ms. Collins, are you still on? Do
2 you have questions of this witness? And
3 maybe if we could identify your property on
4 this map?

5 WANDA COLLINS: I can identify the
6 property if he comes down some.

7 HEARING EXAMINER MCNEIL: Can you
8 all hear Ms. Collins?

9 WANDA COLLINS: Do you hear me?

10 VINCE BIASE: Very faint.

11 HEARING EXAMINER MCNEIL: So,
12 Mr. Biase, you might have to continue to
13 help us --

14 VINCE BIASE: Yeah.

15 HEARING EXAMINER MCNEIL: -- with
16 the exhibit. Thank you.

17 VINCE BIASE: I'll move the screen
18 here.

19 WANDA COLLINS: Move it down.
20 Okay. So my property is -- oh, how would I
21 explain this? As you come out, I guess,
22 that main driveway straight across, that's

1 my property.

2 HEARING EXAMINER MCNEIL: So
3 across the main entrance in? Okay.

4 WANDA COLLINS: Yeah.

5 HEARING EXAMINER MCNEIL: So on
6 this TCP2, Mr. Biasi, is it saying the
7 Alexanders, because they have additional
8 property on that side, or is that really
9 the name for the property that's being
10 developed?

11 VINCE BIASE: The latter. This --

12 HEARING EXAMINER MCNEIL: Okay.
13 Okay.

14 VINCE BIASE: -- I think it's
15 referring to this arrow here.

16 HEARING EXAMINER MCNEIL: Thank
17 you.

18 So, Ms. McCall, now that you see
19 where your property is and you heard what
20 the witness was saying, do you have
21 questions of this witness?

22 MS. MCCALL: No, I don't.

1 HEARING EXAMINER MCNEIL: Okay.

2 Mr. Brown, do you have any
3 questions?

4 ANDREW BROWN: Yes. Mr. Biase,
5 were you proffering Mr. Leary as an expert
6 in either landscape, architecture, or
7 environmental planner? I didn't hear you
8 offer him.

9 VINCE BIASE: No, I'm not.
10 Mr. Leary's testifying to the plans he
11 prepared.

12 ANDREW BROWN: Okay. I don't have
13 any problems with Mr. Leary's testimony; so
14 I don't have any questions. Thank you.

15 HEARING EXAMINER MCNEIL: Okay.

16 Thank you, Mr. Leary.

17 DEVIN LEARY: Thank you.

18 HEARING EXAMINER MCNEIL: So,
19 Mr. Biase, you can take down -- am I mute?
20 You can take down the exhibit. I mean, or
21 Ms. Rawlings, you can take down the exhibit
22 now. Thanks.

1 VINCE BIASE: The next witness we
2 would call is Mr. David Nelson.

3 HEARING EXAMINER MCNEIL: Okay.

4 Mr. Nelson, do you swear or
5 affirm, under the penalties of perjury,
6 that the testimony you shall give will be
7 the truth and nothing but the truth?

8 DAVID NELSON: I do.

9 HEARING EXAMINER MCNEIL: Okay.

10 EXAMINATION

11 BY VINCE BIASE:

12 Q Mr. Nelson, can you please state
13 your full name and business address for the
14 record?

15 A My name is David Allen Nelson. My
16 business address is 400 Crain Highway North
17 in Glen Burnie, Maryland, 21061.

18 Q And where are you currently
19 employed?

20 A The firm -- with Street Traffic
21 Studies Limited.

22 Q What is your current position with

1 Street Traffic Studies?

2 A I'm the president of the firm but
3 also one of the senior transportation
4 engineers.

5 Q Can you briefly describe some of
6 your responsibilities associated with that
7 position?

8 A Yes. I'm responsible for all the
9 engineering work. We're a pretty small
10 firm. There's only eight of us. So I'm
11 responsible for all the engineering and
12 design work that we prepare. We do traffic
13 studies throughout the state. We do design
14 work. We've been under contract with
15 Montgomery County as one of their key
16 traffic engineers for the last 33 years.

17 I've worked in Prince George's
18 County since -- pretty much since I got out
19 of school. I think the first projects I
20 worked on were in the mid-'80s.

21 And so we do residential
22 development, commercial, industrial. We do

1 a lot of school master planning, federal
2 master planning, traffic safety studies for
3 the Highway -- State Highway Administration.
4 There's a broad range of open-ended
5 contracts.

6 Q And have you previously been
7 qualified as an expert in transportation
8 engineering before the Prince George's
9 County Zoning Hearing Examiner?

10 A I have.

11 Q Is Exhibit 63, included in the ZHE
12 record, a copy of your resume?

13 A It is.

14 Q And, if so, does it accurately
15 reflect your educational background and
16 professional experience?

17 A I believe it does.

18 VINCE BIASE: Madam Examiner, we
19 would move to have Mr. Nelson admitted as an
20 expert in the field of transportation
21 engineering for this hearing.

22 HEARING EXAMINER MCNEIL:

1 Mr. Brown, no questions?

2 ANDREW BROWN: Hello, David. How
3 are you, man?

4 THE WITNESS: I am well. How are
5 you? I was surprised to see you still
6 doing this.

7 ANDREW BROWN: I was surprised to
8 see you as well, man. Good to see you. No
9 objection.

10 HEARING EXAMINER MCNEIL: Okay.
11 You will be accepted as an expert in the
12 area of transportation planning.

13 BY VINCE BIASE:

14 Q Mr. Nelson, are you familiar with
15 the property which is the subject of this
16 application?

17 A Yes, I am.

18 Q Were you retained by the applicant
19 to evaluate site access and transportation
20 issues pertaining to the subject property as
21 it relates to the development of one-family
22 attached dwellings for the elderly?

1 A Yes.

2 Q Did you prepare the traffic
3 statement that is submitted with the subject
4 application and included as Exhibit 48?

5 A Yes, I Did.

6 Q Am I correct to understand that a
7 formal traffic analysis is not required for
8 approval of a special exception?

9 A That's true. We coordinated with
10 Park and Planning's transportation staff,
11 and the traffic studies are not required at
12 this stage. They are required as --
13 assuming this is approved and it goes to
14 preliminary planning. That's when the
15 adequate public facilities tests are
16 completed.

17 Q Okay. So adequacy of
18 transportation facilities is evaluated at
19 the time of preliminary plan of subdivision?

20 A That's correct.

21 Q Can you please explain the
22 proposed access points that are associated

1 with this application?

2 A Yes. Unlike a traditional
3 residential development, this development
4 has been designed to consolidate the access
5 into a single point of access, and so that
6 grades up the side street of the stop sign
7 controlled and will be just in that grade
8 intersection. But the key thing from our
9 perspective is, even though there's 61 units
10 proposed, there's only going to be one
11 access point to Westphalia Road.

12 Q Thank you, Mr. Nelson. Can you
13 clarify what the traffic statement that's
14 included as Exhibit 48 details? Just some
15 of the analysis that's associated with that
16 statement.

17 A Yeah. The main thing we wanted to
18 do, when we do a special exception, is
19 what's in that change in the interests based
20 on assuming it's approved versus what the
21 current, by right, development would have.
22 And in this case, we compared -- it's a ten-

1 acre lot. RR could generate 20 lots. So we
2 did a traffic generation study that compared
3 what the trips of a traditional 20-lot RR
4 subdivision would generate versus, in this
5 case, you know, (inaudible 01:02:15) one of
6 65 senior housing -- attached senior housing
7 unit we'd develop.

8 And the reason there's a
9 difference because -- as the record, I'm
10 sure, shows that we're looking to 61. When
11 we first started working on the project, I
12 think we started working in 2021. The
13 number of units has changed, and it would
14 continually change. So I would call staff
15 and say, what about this? What about this?

16 So what we did, we just said,
17 well, there's not going to be more than 65.
18 And so we prepared the statement based on a
19 higher number than what would more than
20 likely be approved or built so that
21 anything that would be less than what we
22 analyzed would be -- you know, if we found

1 65 worked, the 61 certainly works.

2 And so the comparison in the
3 letter is, if we had 65 single-family
4 attached senior housing units, it would
5 generate 14 trips in the morning and 18 in
6 the evening. When you compare that to just
7 a traditional 20-units residential
8 subdivision, which would generate 15 and
9 18, this site would generate one trip less
10 than the 20-unit subdivision or not -- zero
11 less than in the evening of the same
12 comparison.

13 And if we were to take that one
14 step further at 61 units, we actually find
15 that there's actually one more trip less.
16 So we would generate two less trips in the
17 morning and two less trips in the evening
18 than with 20 units a traditional
19 subdivision would, say. There's really no
20 net increase, and there's actually a minor
21 decrease versus what could be built by
22 right.

1 Q And that comparison was included
2 within the traffic statement --

3 A Yes.

4 Q -- identified as Exhibit 48?

5 A Yes.

6 VINCE BIASE: Madam Examiner, can
7 we please pull up Exhibit 74, the local
8 transportation network exhibit? And I'm
9 happy to --

10 HEARING EXAMINER MCNEIL: Okay.

11 One second.

12 Ms. Rawlings, do -- can we -- can
13 we pull this up now, or do you still need
14 to help me out?

15 MS. RAWLINGS: I will try again.

16 DAVID NELSON: Okay.

17 MS. RAWLINGS: I've been talking
18 with someone in our office about it, and he
19 doesn't understand why we are not able to
20 share --

21 HEARING EXAMINER MCNEIL: Okay.

22 MS. RAWLINGS: -- and Mr. Biasi

1 can. I'll try one more time. If not,
2 Mr. Biasi, we may have to have you do it.

3 VINCE BIASE: Okay.

4 HEARING EXAMINER MCNEIL: And it
5 was Exhibit 74 you wanted?

6 VINCE BIASE: Yes, 74.

7 MS. RAWLINGS: Can you see it?

8 VINCE BIASE: I can.

9 MS. RAWLINGS: Fatima, I'm going
10 to try and make you co-host again, and
11 let's see if you can try it again. Okay.
12 I've made you co-host.

13 VINCE BIASE: Great. Thank you.

14 MS. RAWLINGS: Great. It worked.

15 BY VINCE BIASE:

16 Q Mr. Nelson, can you see the local
17 transportation network exhibit?

18 A I can.

19 Q you please summarize the relevant
20 local transportation network for the subject
21 property?

22 A Sure. I think the red dot right

1 next to the W in Westphalia is the site that
2 accesses on the south side of Westphalia
3 Road. The master plan defines that as
4 C-626. And so the C roads on the master
5 plan are collectors. And the purpose of a
6 collector highway is actually exactly what
7 the name is, is that you have local
8 residential streets, and then the purpose of
9 the collector is to collect the traffic off
10 the residential streets and then carry it to
11 the higher-level classification roadways,
12 which, in this case, would be to the north,
13 to the arterials of White House Road,
14 Ritchie Marlboro Road.

15 To the South, you get into the
16 freeways. Route 4 is a freeway, and then
17 you have the expressways and the beltway.
18 So you define a network based on hierarchy
19 of roads. So in this case, though, we
20 don't -- the development itself doesn't
21 connect to any subdivisions. It connects
22 directly to the collectors, which is what

1 it's supposed to do, and then those
2 collectors carry the traffic to the
3 adjoining higher-level roadways to get
4 people to, say, the beltway or further
5 south on Route 4.

6 And so it's almost a grid, but
7 it's a -- and this is all based on the
8 recent master plan work that's been done
9 out there. But it's a very good safe road
10 system to support the planned development.

11 Q In your capacity as an expert in
12 traffic engineering or transportation
13 engineering, how will the proposed senior
14 housing community affect this existing
15 transportation network?

16 A Actually, as we said, the traffic
17 numbers are almost de minimis. They're
18 less than 20 peak hour trips. So you
19 really aren't going to even see the trip
20 loading. But, more importantly, the
21 design, I think, is a benefit to the
22 collectors. You can access -- as you can

1 see, if you go further north on Westphalia
2 Road, there's a number of developments that
3 each house has a driveway to the collector,
4 and then, if you go about 1,500 feet,
5 there's a string of about ten of them which
6 have individual driveways. And while it's
7 not allowed, it's significantly better from
8 a traffic safety perspective to consolidate
9 your driveways into a main road and then
10 not have any conflicts along the roadway.

11 So this development actually, I think, is a
12 far superior design to what ordinarily
13 would have been built on this property.

14 Q Are you familiar with the prior
15 zoning ordinances required findings for
16 approval of a special exception?

17 A Yes.

18 Q In your capacity as an expert in
19 transportation engineering, will the
20 granting of this application be consistent
21 with the applicable standards required in
22 the ordinance for the use in question?

1 A Yes.

2 Q Specifically, will the approval of
3 the application cause any adverse effect
4 upon the adjacent properties or surrounding
5 neighborhood?

6 A No. In fact, as I noted, I think
7 it reflects a benefit and an improvement
8 over what would ordinarily be built out
9 there. So I don't believe there would be
10 an adverse effect, but I think there'd be a
11 net benefit to the community by allowing
12 this to go forward as designed.

13 Q And will the approval of this
14 application have any detrimental effect on
15 the health, safety, or welfare of
16 pedestrians or motorists in the area?

17 A Not that I'm aware of.

18 VINCE BIASE: That'll be all the
19 questions I have for Mr. Nelson, Madam
20 Examiner.

21 ANDREW BROWN: I have no
22 questions. Thank you.

1 HEARING EXAMINER MCNEIL:

2 Mr. Nelson, I have one question. You're
3 familiar with the site?

4 THE WITNESS: Yes.

5 HEARING EXAMINER MCNEIL: So if I
6 was on Westphalia, if I had gotten on from
7 Pennsylvania Avenue, and was traveling to
8 this site, is that one point of access
9 after that crazy wiggly intersection with
10 D'Arcy with those stop signs, or is it
11 before then?

12 THE WITNESS: It's just after
13 that.

14 HEARING EXAMINER MCNEIL: Just
15 after.

16 DAVID NELSON: So you have to
17 drive through that intersection to get to
18 this development.

19 HEARING EXAMINER MCNEIL: Okay.
20 And do you -- so you anticipate that
21 everyone that lives there -- although the
22 traffic impact will be de minimis, will you

1 all be looking, at the time of preliminary
2 plan, if this is approved, at a way -- as -
3 - at a way to ensure that all the cars can
4 still safely come out of your site due to
5 all the craziness that's going on along
6 D'Arcy? I hate to call it that, but, if
7 anybody's familiar with this area, that's a
8 very interesting little --

9 DAVID NELSON: Interesting.

10 That's a good word for it. No. In fact,
11 as we said, the next step of approval would
12 be to go to the preliminary plan. And we
13 already know that, at that stage, that's
14 the primary intersection that staff is
15 asking us to review for adequacy to
16 determine that we won't have an adverse
17 impact to it. That's the key one that
18 we're asked to look at. So we will be
19 addressing hopefully the craziness at that
20 time.

21 HEARING EXAMINER MCNEIL: And do
22 you know about how many feet you are past

1 that intersection with D'Arcy?

2 DAVID NELSON: I can actually -- I
3 have a Google map here. Just a second.

4 HEARING EXAMINER MCNEIL: Okay.

5 DAVID NELSON: I think it's in the
6 staff report, but I don't remember on the
7 top of my head. It's --

8 HEARING EXAMINER MCNEIL: Okay.

9 DAVID NELSON: I think it's less
10 than a thousand feet, but I would want to
11 measure it, and I don't know.

12 HEARING EXAMINER MCNEIL: Okay.

13 And then my other question is the access
14 point was, in your expert opinion, the best
15 place to access this site?

16 DAVID NELSON: I believe it is.

17 But, again, at the next stage, it will go
18 through Public Works in detail, and we will
19 have to make sure that the site distances
20 were -- are all adequate. We have to make
21 sure that the additional -- the curbs,
22 gutters are all laid down, and they're

1 based on their guidelines and
2 specifications.

3 So it may be -- you know, the site
4 engineer may want to step up a little bit,
5 but I don't believe it will move, but if it
6 does, it will be for a reason to further
7 improve its location.

8 HEARING EXAMINER MCNEIL: Okay.
9 Ms. McCall, do you have any questions of
10 this witness? I don't know if she's still
11 here.

12 MS. ROBINSON: Hi.

13 HEARING EXAMINER MCNEIL:

14 Ms. Robinson --

15 MS. ROBINSON: Yeah.

16 HEARING EXAMINER MCNEIL: -- do
17 you have questions of this witness?

18 MS. ROBINSON: Well, for
19 Ms. McCall. Hi. She's my neighbor, and
20 she's actually a doctor. She just texted
21 me. She's in with a patient, but she -- I
22 have a statement she wants me to read for

1 her. But I know that's later during
2 comments. So not at this time, no, she has
3 no questions.

4 HEARING EXAMINER MCNEIL:

5 Ms. Robinson, are we able to get your
6 information to make sure we added you as a
7 person of record as well?

8 MS. ROBINSON: Oh, I'm a person of
9 record.

10 HEARING EXAMINER MCNEIL: Okay.

11 All right.

12 MS. ROBINSON: I'm already linked
13 to you.

14 HEARING EXAMINER MCNEIL: Okay.

15 So if you don't have any redirect, I don't
16 have any other questions for Mr. Nelson.

17 THE WITNESS: Thank you very
18 much.

19 BY VINCE BIASE:

20 Q I actually have one more question,
21 Mr. Nelson, just to clarify, based on
22 Madame Examiner's follow up: Does the site

1 access -- as currently proposed, does that
2 cause any adverse effect upon the adjacent
3 properties or surrounding neighborhood?

4 A No.

5 Q And does the site access -- as
6 currently proposed, would that have any
7 detrimental effect on the health, safety,
8 or welfare of pedestrians or motorists in
9 the surrounding area?

10 A No.

11 VINCE BIASE: All right. Thank
12 you.

13 MS. ROBINSON: I -- actually --
14 hi. Jamala (phonetic) Robinson again. I
15 do have a question about the traffic. I
16 live on Westphalia Road on -- down at 9807.

17 And like you said, it is -- that
18 intersection there at D'Arcy and Westphalia
19 is a nightmare. Any given day, there's an
20 accident. And I know most of our concerns
21 are more traffic on Westphalia because
22 everything -- you said it's a collector

1 road. It's not. It's a one-lane street
2 that you guys are using as a collector road
3 dumping everything from Parkside, the
4 communities coming on further down
5 Westphalia going towards -- going --

6 HEARING EXAMINER MCNEIL: Okay.

7 Ms. Robinson, one second. So let him
8 answer --

9 MS. ROBINSON: So you have --

10 HEARING EXAMINER MCNEIL: -- that
11 part. Wait. No, no. Let him answer that
12 part because that was more testimony from
13 you.

14 MS. ROBINSON: Okay.

15 HEARING EXAMINER MCNEIL: So why
16 is it you consider that a collector road?
17 Do you disagree with Ms. Robinson that it's
18 really a one lane -- well, two-lane street
19 being used as a collector, Mr. Nelson?

20 DAVID NELSON: Well, Westphalia
21 Road is definitely a two-lane collector
22 highway in the county.

1 MS. ROBINSON: Are you referring
2 to two lanes each way or one lane each way?

3 DAVID NELSON: No. One lane in
4 each direction.

5 MS. ROBINSON: Okay.

6 DAVID NELSON: There are -- there
7 are different kinds of collectors. This is
8 a rural two-lane collector.

9 MS. ROBINSON: Okay.

10 DAVID NELSON: And ultimately it
11 could be widened, but right now it could
12 only be widened when the traffic was there
13 to justify it.

14 MS. ROBINSON: Uh-huh. And I
15 agree. It was a rural road. It is no
16 longer a rural road as -- especially since
17 you are trying to change the zoning on this
18 from a rural to a non-rural zoning. Is
19 that not what this is trying to do?

20 HEARING EXAMINER MCNEIL: Well, to
21 clarify, the zoning is not changing, but
22 they're requesting a special exception use

1 which is permitted in that zone if it's
2 approved after these hearings.

3 MS. ROBINSON: Okay. Yeah. But I
4 -- as someone who travels this street, I
5 just -- the traffic on it is really
6 horrendous. And I know you're saying the
7 one way in is a better option than multiple
8 ways into the community, but as someone who
9 drives there multiple times a day, I don't
10 really -- I don't -- I don't understand how
11 one way in and out is a better option, but
12 you're -- I guess you're the expert. But I
13 don't -- I just -- I'm trying to understand
14 how one way into anything is a better
15 option than multiple ways and how more --
16 putting more traffic onto a two lane, one
17 lane each way, street that is already
18 overcrowded is the best option. Okay.
19 That's my comments on it.

20 HEARING EXAMINER MCNEIL: Yeah. I
21 don't know how to make that a question; so
22 --

1 MS. ROBINSON: Yeah. (Crosstalk)

2 VINCE BIASE: (Crosstalk)

3 HEARING EXAMINER MCNEIL: --

4 (crosstalk) we -- we'll have to say it
5 again.

6 MS. ROBINSON: (Crosstalk)

7 HEARING EXAMINER MCNEIL: I was
8 trying, but --

9 MS. ROBINSON: Yeah. My question
10 is -- so as you're still saying it's a
11 collector -- it's considered a collector,
12 but it's more of -- it's still -- it's not
13 being -- it's not being changed to be a --
14 to handle the amount of collecting it has
15 to do.

16 So I'm not sure I understand how
17 it's actually defined as a collector with
18 the amount of traffic that's being
19 collected on it. It's -- that -- like you
20 said, that intersection is not safe as it
21 is, and I know you said that will be
22 addressed later, but as someone who's lived

1 here for 15 years, I've heard that for 15
2 years.

3 So there's an accident there at
4 least twice a week and putting more
5 traffic, especially right there at the
6 intersection -- because I know exactly
7 where this is going. I walk past it every
8 day. I go on walks. It's not safe. I
9 know -- and I drive through it every day.

10 I do -- that intersection is not safe and
11 putting more traffic right there by the
12 intersection doesn't seem safe. So I'm not
13 sure if a different entrance would be
14 better or what, but I -- that's -- my
15 question is how is more traffic right
16 there, at an already unsafe intersection,
17 now making it safer?

18 HEARING EXAMINER MCNEIL: So,
19 Mr. Nelson, if you can answer that part.
20 Why do you believe this entrance is safe,
21 given the -- given the peculiarities of the
22 D'Arcy Road intersection?

1 DAVID NELSON: It sounds like two
2 different questions. But one is the point
3 that we were making about the design of the
4 property itself. If you have -- one of the
5 things we try, as traffic engineers, to
6 improve capacity and safety is to control
7 access. And the least number -- say if
8 you're driving down Westphalia Road and
9 this property -- I mean, just go a little
10 bit further north. And if you just drive
11 down Westphalia Road a little bit to the
12 north, there's, like, 15 houses that front
13 on Westphalia Road directly. Each one has
14 a garage. It has a driveway.

15 So you can envision that, as
16 people are traveling down it, people are
17 coming in and out of their driveways.
18 There's waiting to make left turns in,
19 right turns out. Every one of those houses
20 has that kind of a experience that the
21 drivers have to confront versus what this
22 plan proposes where you have the entire

1 frontage of the property, but then there's
2 only one driveway and all the traffic that
3 -- and all the turning movements are going
4 to occur in one place. So you don't have
5 to respond to multiple, you know, left
6 turns, right turns, somebody's pulling in
7 to, you know, get into their house versus
8 backing out of their driveways. None of
9 that will occur at this location.

10 So from a traffic engineering
11 perspective, the design -- it really is
12 significantly safer than, you know,
13 individual driveways along the entire
14 frontage. The question about traffic --
15 and, again, the next step in the county's
16 requirements are very -- you know, with the
17 system, we have to prove that the
18 facilities are adequate to support it from
19 a traffic perspective, and that's going to
20 be -- again, the intersection will be
21 something we have to show that we're not
22 having an adverse effect to it. And if we

1 do, then we have to come up with a response
2 to it. But that's not -- you know, we're
3 not -- we're not there yet.

4 And as far as Westphalia Road, I
5 think the character of the road is, you
6 know, pretty much the way it's been for a
7 long time. With the development to the
8 south, there's no doubt that people are
9 seeing an increase in traffic with that
10 connection from the development opposite
11 D'Arcy.

12 The site requirement is -- doesn't
13 meet standards and their level of service
14 requirements, and we'll have to analyze
15 that and make sure that it's adequate. Is
16 it going to be different than what it is
17 today or what it was 15 years ago? It
18 probably is. But the question isn't is it
19 different. The question is is it adequate,
20 and that's what we have to prove at the
21 next step.

22 HEARING EXAMINER MCNEIL: Okay.

1 Thank you. One last one for me just for my
2 edification. That entrance into -- I guess
3 it's called Parkside which I guess is MC --
4 is that the -- or maybe it's C-627. Is
5 that it?

6 DAVID NELSON: I would have to see
7 the map.

8 HEARING EXAMINER MCNEIL: Okay.
9 But my real point is -- well, do they have
10 a light there now, or will they have a
11 light for that one? Or is that still a
12 stop sign too?

13 DAVID NELSON: I'm not sure where
14 we're talking.

15 HEARING EXAMINER MCNEIL: The
16 adjacent huge development that's --

17 MS. ROBINSON: Parkside.

18 HEARING EXAMINER MCNEIL: Yeah.
19 Parkside, part of the Westphalia Sector
20 Plan Area.

21 MS. ROBINSON: It's a stop sign.

22 DAVID NELSON: You mean opposite

1 D'Arcy Road?

2 HEARING EXAMINER MCNEIL: Yeah,
3 it's near there, and it's going all the way
4 back to -- at some point it'll get back on
5 Pennsylvania. Well, not -- that street
6 doesn't. Well, if you don't know, you
7 don't know. That's okay.

8 DAVID NELSON: I don't -- I don't
9 know.

10 MS. ROBINSON: It's a stop sign.

11 HEARING EXAMINER MCNEIL: Wait,
12 wait, wait, wait. Whoever else is talking,
13 you can tell me when you testify, please.
14 Thank you. Okay.

15 So no more questions of
16 Mr. Nelson, Mr. Biase?

17 VINCE BIASE: No more questions.

18 HEARING EXAMINER MCNEIL: Okay.

19 VINCE BIASE: That will --

20 HEARING EXAMINER MCNEIL: Thank
21 you, sir.

22 VINCE BIASE: That will conclude

1 the applicant's case in chief.

2 HEARING EXAMINER MCNEIL: Okay.

3 VINCE BIASE: I would like to
4 thank Planning staff and the ZHE staff for
5 their consistent coordination on this
6 application as well as --

7 HEARING EXAMINER MCNEIL: Wait.

8 Before you thank us, I think we do have
9 some persons that might want to testify
10 today. I'm sorry.

11 VINCE BIASE: Okay.

12 HEARING EXAMINER MCNEIL: I'm
13 sorry.

14 VINCE BIASE: Sure.

15 HEARING EXAMINER MCNEIL: So last
16 time around Wanda Collins and Dr. McCall
17 testified.

18 So, Ms. Robinson or Ms. Burton, do
19 you all want to testify or anyone else here
20 that might be opposed to the request?

21 MS. BURTON: I would. This is
22 Dr. Burton, and I --

1 HEARING EXAMINER MCNEIL: Okay.

2 MS. BURTON: -- did speak at the
3 last --

4 HEARING EXAMINER MCNEIL: Oh, you
5 did?

6 MS. BURTON: -- meeting hearing as
7 well, and I think Mr. Biase -- he had a
8 meeting with some of our community. He
9 addressed some concerns, but I just want to
10 go back to that issue of Westphalia Road.
11 And I'm so happy (crosstalk) --

12 HEARING EXAMINER MCNEIL: Wait --
13 wait one second.

14 Do you swear or affirm, under the
15 penalties of perjury, that the testimony
16 you shall give will be the truth and
17 nothing but the truth?

18 MS. BURTON: I do.

19 EXAMINATION

20 BY HEARING EXAMINER MCNEIL: Okay. Thank
21 you.

22 THE WITNESS: So I just want to go

1 back to the issues that my neighbor,
2 Ms. Robinson, raised, and they're the same
3 concerns with -- that Dr. McCall had as
4 well and about that road. For clarity --

5 HEARING EXAMINER MCNEIL: I'm so
6 sorry.

7 THE WITNESS: Can you hear me?

8 HEARING EXAMINER MCNEIL: You're
9 Dr. Burton as well? You're a doctor?

10 THE WITNESS: I am Dr. Ramona
11 Burton.

12 HEARING EXAMINER MCNEIL: Okay.
13 Okay.

14 THE WITNESS: And just for the
15 record --

16 Q Dr. Burton, could you state your -
17 - yeah. Could you state your address for
18 the record, though, and then tell me?

19 A Okay. Sure.

20 Q Okay.

21 A 3214 Valley Forest Drive, Upper
22 Marlboro, Maryland, 20772. And I'll put a

1 question out first. Right? Because my
2 concern is over that one entry, and I did
3 hear his explanation about, you know, how
4 many driveways. And I'm not saying I don't
5 want this neighborhood. Right? I think
6 it's a great idea.

7 Ms. Alexander, I want to say that
8 to you. Okay? But, also, I just want to
9 make sure that -- we all who live there
10 know how busy the road has gotten. I drove
11 my son to school this morning, and it was
12 just traffic trying to come off Valley
13 Forest Drive, that next road down, and
14 because of all the development around.

15 So my question is, as we are
16 meeting to approve the zoning to increase
17 the number of houses in this community,
18 right, this community to be built, well,
19 shouldn't it be contingent upon changing
20 the zoning for that road that he's
21 referring to as rural -- it's one lane in
22 each direction. Considering what we've

1 seen -- and I'm not sure of the name of the
2 townhome community that was built down
3 Sansbury by the Royal Farms.

4 Q Okay.

5 A With the limited parking that will
6 -- is planned inside of this community,
7 there's a lot of overflow on the -- or what
8 was the shoulder. So with it being just one
9 lane in each direction -- and there is
10 currently a shoulder there -- my concern is
11 what happens when the -- there aren't enough
12 spaces in the new owner's driveway and their
13 guests or their -- I'm not going to say
14 their guests because it's the same cars
15 parked along Sansbury overflow because of
16 limited space inside.

17 So it's more about the road. It's
18 more about Westphalia and it being improved
19 to accommodate this new community and make
20 it safe for everyone, including the
21 residents that will be turning in and out.
22 One driveway or not, they need to be safe

1 coming in and out of that traffic.

2 HEARING EXAMINER MCNEIL: Thank
3 you. So --

4 THE WITNESS: There is no light at
5 that busy street, that intersection you
6 were referring to. There is not a light
7 there. There's a four-way stop. There's a
8 two-way stop sign because the traffic on
9 Westphalia continues. So you can sit there
10 for a very long time, and if you're coming
11 from D'Arcy, the cars coming from the new
12 community, Parkside, you've equally been
13 sitting there a long time. It's a -- it's
14 a hazard that needs to be addressed. There
15 needs to be a light there. Maybe if there
16 was a traffic light put there, as this
17 community was -- is being built, it would
18 slow down the traffic and give them an
19 opportunity to get out in the traffic.

20 We're also talking about, you
21 know, older residents -- okay -- driving.
22 I mean, we want to consider that too.

1 HEARING EXAMINER MCNEIL: I'm not
2 taking any offense -- don't worry --

3 MS. BURTON: Listen. I --

4 HEARING EXAMINER MCNEIL: -- since
5 I know I could live there.

6 MS. BURTON: I can too. I said
7 that the last time. Oh, I can too. I
8 can't because of my kid. I have to wait
9 until it gets out of school, but
10 definitely, between my husband and I, we
11 qualify and might be looking to move there
12 but don't want to get caught into that
13 traffic coming out. It is dangerous. So
14 I --

15 HEARING EXAMINER MCNEIL: Yeah.

16 MS. BURTON: -- it is, again, not
17 about the community but about the
18 improvements to that road. It is -- we do
19 not live in a rural town. There's nothing
20 rural about Westphalia, period.

21 HEARING EXAMINER MCNEIL: Okay.

22 Mr. Brown, do you have any questions that

1 might also answer Ms. Burton's questions?

2 ANDREW BROWN: Well, probably, I
3 guess I do have a little bit of a comment.
4 I actually used to own the property
5 adjacent to this property on Westphalia
6 Road which is on both sides of the C-267
7 south of the intersection of D'Arcy Road.
8 And the seller of this property to the
9 Alexanders, Mr. and Ms. Kenneth Moran, sold
10 that adjacent property to me, and I sold it
11 -- I think it was in 1995. I had it for
12 about ten years.

13 So I'm very familiar with the
14 intersection and everything Dr. Burton has
15 testified to as well as some of the other
16 persons. They are correct about the nature
17 of the intersection and the volume of
18 traffic that has increased, but the problem
19 is many of these issues will be addressed
20 at the time of preliminary plan of
21 subdivision.

22 And, Mr. Nelson, you can correct

1 me if I'm wrong, but I believe Westphalia
2 Road is designated as some type of historic
3 roadway, is it not? Mr. Nelson or Ms.
4 Robinson, either one of you, go ahead.

5 DAVID NELSON: I don't know the
6 correct one, but it's either a historic or
7 a scenic road.

8 ANDREW BROWN: Or a scenic road.
9 And as a result of that, there are some
10 constraints on the authority, if you will,
11 for the county to widen that one-way road
12 in each direction. There are a number of
13 developments that are going to occur on
14 Westphalia Road between Ritchie Marlboro
15 Road and the D'Arcy Road/Westphalia Road
16 intersection. And there will be
17 improvements to the curb and gutter, but
18 it's not going to be widened.

19 However, Mr. Nelson is absolutely
20 correct that the fact that this project is
21 proposing only one access point on
22 Westphalia Road is actually a benefit as

1 opposed to having multiple ingress and
2 egress points which would cause more
3 conflict with the rise and volume between
4 Ritchie Marlboro Road and Pennsylvania
5 Avenue on Westphalia Road. And as
6 Dr. Burton just indicated, the additional
7 traffic that will be coming from Parkside
8 going up to Sansbury Road to access the
9 Beltway or the Morgan Boulevard subway
10 station.

11 So, yeah, traffic will increase,
12 but given what is proposed by the
13 applicant, I think this is a best-case
14 scenario in terms of traffic. And all that
15 having been said, this is really not the
16 appropriate forum to deal with those
17 issues, and I would just suggest that
18 everyone who has participated, not
19 necessarily as opposition, but in terms of
20 offering comments, you should participate
21 at the time of the preliminary plan of
22 subdivision so that these issues can be

1 mitigated as best they can.

2 HEARING EXAMINER MCNEIL: And they
3 will be notified because they were all
4 persons of record in this hearing; correct?

5 ANDREW BROWN: That is correct.

6 MS. BURTON: I do have one more
7 question, please. Hello?

8 HEARING EXAMINER MCNEIL: It's of
9 Mr. Nelson? Who's your question for?

10 MS. BURTON: It may be,
11 Mr. Nelson. I'm not exactly sure.

12 HEARING EXAMINER MCNEIL: He did.
13 He talked about transportation.

14 MS. BURTON: So -- okay. I'll
15 make it a transportation question. The
16 entrance to the Alexander property
17 currently where it is, it is easier for me
18 and my other neighbors to get out because
19 it's not exactly in front of it. It's --
20 they're spread out. If I'm not mistaken,
21 from the first time that I saw the drawings
22 to now, the entrance has moved closer to my

1 driveway, and that's (crosstalk) --

2 HEARING EXAMINER MCNEIL: Okay.

3 Wait a minute. Let's stop right there.

4 So, Mr. Nelson, are you still on?

5 DAVID NELSON: I am. The --

6 HEARING EXAMINER MCNEIL: Do you

7 or --

8 DAVID NELSON: I would suggest the

9 civil --

10 HEARING EXAMINER MCNEIL: Okay.

11 DAVID NELSON: -- because I wasn't

12 involved with placing the driveway.

13 HEARING EXAMINER MCNEIL: Okay.

14 So that's Mr. -- Wait a minute.

15 VICTORIA BALLESTEROS: So I can

16 speak to that. The original --

17 HEARING EXAMINER MCNEIL: Okay.

18 Ms. Ballesteros --

19 VICTORIA BALLESTEROS: Yes. The

20 original layouts that were developed for

21 the property included two points of access

22 along Westphalia Road, one on the east side

1 of the property and one on the west side of
2 the property. Based on the recommendation
3 of the councilperson for this area, we --
4 the applicant met with the community, and
5 we heard the community's concern about
6 traffic and reduced the access to one
7 centrally located access point on the
8 frontage of the site, and a sight distance
9 analysis was performed at the time of the
10 Site Development Concept Plan which has
11 been approved by DPIE.

12 MS. BURTON: So it is closer to my
13 driveway. That's my question.

14 VICTORIA BALLESTEROS: I believe
15 it is closer to your --

16 MS. BURTON: Yes, it is. Yes, it
17 is.

18 HEARING EXAMINER MCNEIL: Okay.

19 Okay. Thank you, Ms. Ballestero.

20 Ms. Collins, do you want to
21 testify now?

22 WANDA COLLINS: I got so much on

1 my mind. This is really bothering me. But
2 I think that --

3 HEARING EXAMINER MCNEIL: Wait,
4 wait, wait. Before you testify, I have to
5 swear you as a witness and then just tell
6 us --

7 WANDA COLLINS: Oh, I --

8 HEARING EXAMINER MCNEIL: -- your
9 address.

10 WANDA COLLINS: Okay.

11 HEARING EXAMINER MCNEIL: So do
12 you swear or affirm, under the penalties of
13 perjury, that the testimony you shall give
14 will be the truth and nothing but the
15 truth?

16 WANDA COLLINS: I do.

17 HEARING EXAMINER MCNEIL: Okay.
18 So just state your name and address and
19 tell us what you would like to about this.

20 THE WITNESS: Wanda Collins, and I
21 live at 9400 Westphalia Road, Upper
22 Marlboro, Maryland, 20774.

1 I am directly impacted by what's
2 going on. Most of the construction and
3 trucks that are going to come down
4 Westphalia will be turning into that area,
5 and it -- I think it would definitely
6 affect my in and out of my driveway.
7 That's one.

8 The second thing is it's going to
9 be at street level, and it's going to have
10 a curve and I'm thinking water drainage. I
11 don't know how that drainage really is
12 going to be, but I don't have a curb to
13 block water from coming into my driveway.
14 It's only on -- it's only going -- that's
15 the only -- I think that may -- yeah. The
16 only curbs that we have are on that side of
17 the street. We don't have any on this side
18 of the street.

19 So the drainage would probably end
20 up in our property on this side of the
21 street because we are at street level, and
22 then it drops down here. I don't think

1 anybody really took the people on this side
2 of the street into consideration when they
3 put this plan together, and I think that --
4 I think they should look at it a little bit
5 more.

6 The traffic has increased already,
7 and it's not just from Westphalia traffic.
8 It's traffic off of Ritchie Road that now
9 they know they have a shortcut to
10 Pennsylvania Avenue. They have had more
11 accidents at this D'Arcy intersection
12 connecting Parkside to it than I've seen
13 since I've lived here in over 30 years. And
14 I think it -- some more -- some more
15 studying should be -- I am a project
16 manager, and my thing is assess, assess,
17 assess. You have to assess a lot of things,
18 not just that one piece of property, the
19 people around you and how it's affecting
20 them.

21 And I know everybody can't get on
22 here because a lot of people are at work,

1 but I think that they should at least be
2 contacted. I never got the notification
3 and it was because of a name change; so I
4 got into this late. But now that I am in
5 it, I mean, I do have things that I want to
6 say and want to do. I tried to get other
7 neighbors to come on and say something, and
8 I think a couple of them might have been
9 here today, I believe -- Ms. Thomas.

10 So -- and I -- she looks like she
11 has a hand raised. So I'm going to go and
12 let her say what she has to say. Thank
13 you.

14 KIM THOMAS: So I --

15 HEARING EXAMINER MCNEIL: So wait
16 a second. Does anyone have questions of
17 Ms. Collins?

18 ANDREW BROWN: Ms. Collins, I just
19 wanted -- two very quick questions: I
20 received the email from the examiner's
21 office with four or three photographs that
22 you wanted placed in the record; is that

1 correct?

2 THE WITNESS: Yes, it is.

3 ANDREW BROWN: I don't know,
4 Fatima, whether or not we can put up those
5 three photographs. Can we?

6 HEARING EXAMINER MCNEIL: Thanks
7 for remembering that because we were having
8 problems with trying to copy them or -- so
9 we might have to have them resubmitted.

10 But if Fatima or Susie could pull up those
11 three photos, and then Ms. Collins could
12 identify what they are.

13 Thank you, Mr. Brown, for that.

14 MS. RAWLINGS: Fatima, are you
15 still able to share? Thank you.

16 THE WITNESS: I know my pictures
17 aren't very clear, but I'm going to try to
18 explain this. If you turn up my driveway
19 to the right, coming towards the house,
20 this is one of the pictures that -- since
21 the animals have been driven on this side
22 of the street, and now it's considered

1 preserved land, it's being torn down. It's
2 -- the trees are falling. The ground -- I
3 can't even explain what the ground looks
4 like.

5 ANDREW BROWN: All right.

6 Ms. Collins, let me just ask you one or two
7 questions so we can authenticate the
8 photographs and possibly offer them into
9 evidence.

10 THE WITNESS: Okay.

11 ANDREW BROWN: This is a
12 photograph of what property? Your
13 property?

14 THE WITNESS: Mine, yes.

15 ANDREW BROWN: Excuse me?

16 THE WITNESS: Mine.

17 ANDREW BROWN: Your property. And
18 the other two photographs are also
19 photographs of your property; correct?

20 THE WITNESS: Yes. Yes, they are.

21 ANDREW BROWN: And these -- and
22 these photographs were taken when? What

1 date?

2 THE WITNESS: The 20- -- 24th, I
3 believe.

4 ANDREW BROWN: Of this month?

5 THE WITNESS: Yeah.

6 ANDREW BROWN: And all three
7 photographs are a fair and accurate
8 representation of the condition of the
9 property today as it was on the day you
10 took it; correct?

11 THE WITNESS: Correct.

12 ANDREW BROWN: All right.

13 So, Mr. Biasi, unless you have any
14 objection, I have no objection to the
15 admission of these three photographs.

16 VINCE BIASE: No objection.

17 HEARING EXAMINER MCNEIL: Okay.

18 Before we move, what we're seeing now
19 should be Exhibit 78-A. I don't know how
20 you all are going to mark this, but we're
21 going to have to -- Ms. Collins, we might
22 have to get back with you and get the

1 pictures resent.

2 THE WITNESS: Okay.

3 HEARING EXAMINER MCNEIL: But for
4 now, Ms. Rawlings, are you able to make
5 that 78-A somehow?

6 MS. RAWLINGS: Yes, ma'am.

7 (Exhibit 78-A was marked for
8 identification.)

9 HEARING EXAMINER MCNEIL: Okay, so
10 now can you pull up 78-B?

11 THE WITNESS: This is also the
12 destruction that's going on in there. They
13 hop across my driveway. Well, deer hop
14 across the driveway, and this is the
15 destruction that's going on, but you can
16 see it coming up the driveway.

17 The other day I tried to get a
18 picture, but I couldn't. There's a fox
19 living in there, and there's deer living
20 down in there. And, if you can see, the
21 greenery is going away, like at the top of
22 the picture. It's dying out.

1 HEARING EXAMINER MCNEIL: Okay.

2 And then can you show Exhibit 78-C?

3 And what is this showing us?

4 THE WITNESS: This is showing how
5 it's dying off. Trees are falling.

6 ANDREW BROWN: So, Ms. Collins, I
7 mean, just to sort of wrap up your
8 testimony, you're not suggesting that this
9 current situation, concerning these three
10 photographs, is a result of the applicant's
11 proposed development, are you? Or are you
12 suggesting that it will exacerbate this
13 problem?

14 THE WITNESS: It would make this
15 problem even bigger.

16 ANDREW BROWN: Why do you say
17 that?

18 THE WITNESS: Well, this was
19 Parkside. This was -- this was -- this was
20 a result of them building in Parkside.
21 This is where the animals decided they were
22 going to come and stay, and this is what

1 has been done to it since then.

2 ANDREW BROWN: All right. So
3 ultimately, what you're suggesting is that
4 any new development is destroying the
5 forest land and, therefore, the animals are
6 running onto your properties and others;
7 correct?

8 THE WITNESS: Yeah. Yes, I am.

9 ANDREW BROWN: All right. Thank
10 you. I don't have any other questions.

11 THE WITNESS: Thank you.

12 HEARING EXAMINER MCNEIL: Thank
13 you, ma'am.

14 Okay. So you said someone else
15 wanted to testify? I can't see you.

16 KIM THOMAS: Yes, I wanted to go
17 on record and testify.

18 HEARING EXAMINER MCNEIL: Okay.

19 KIM THOMAS: My name is Kimberly
20 Thomas. I live at -- oh, I'm sorry. I
21 guess you need to swear me in first. So --

22 HEARING EXAMINER MCNEIL: Yes.

1 KIM THOMAS: -- let me step back.

2 HEARING EXAMINER MCNEIL:

3 Ms. Thomas, do you swear or affirm, under
4 the penalties of perjury, that the
5 testimony you shall give will be the truth
6 and nothing but the truth?

7 KIM THOMAS: I do.

8 EXAMINATION

9 BY HEARING EXAMINER MCNEIL:

10 Q Okay. So give us your address and
11 go ahead and tell us what you'd like to
12 about this.

13 A Yes. My address is 9503
14 Westphalia Road, Upper Marlboro, Maryland,
15 20774.

16 I happen to be one house away from
17 Ms. Alexander's property. And so I am also
18 a homeowner that is going to be directly
19 impacted by not only what's proposed to
20 take place on the Alexander property but
21 also the church, that's proposed to be
22 built, is directly across from where I

1 currently live.

2 I have been a member of the
3 Westphalia community for going on 21 years,
4 and I have greatly seen how the traffic has
5 increased and how the neighborhood has
6 changed over these past 21 years. When I
7 first moved on Westphalia Road, I could
8 still hear the cows mooing because it was
9 basically farmland, very rural land, and
10 all of that has been diminished and taken
11 away.

12 And my concern is the
13 infrastructure is not built or designed to
14 handle the numerous housing developments
15 that are taking place in -- on Westphalia
16 Road and the surrounding community. As has
17 already been testified, that intersection
18 is a nightmare. I think people have
19 forgotten driving rules. You can be at the
20 intersection first, waiting to turn; and,
21 you know, while you're trying to make a
22 left turn, which I have to do to get to my

1 property, someone can come down from the
2 Parkside, you know, and I'm already there
3 with my signal light on waiting to turn.

4 And as I'm turning, they will zoom across
5 the street, and I've almost run into cars
6 several times when I've been there waiting
7 to turn, and it's my right-of-way, but they
8 decide they don't want to wait, and they
9 zoom across the highway while I'm, in fact,
10 trying to make a left turn. And I've had
11 to slam on brakes numerous times to keep
12 from running in someone's driver's side
13 door.

14 So there does need to be some type
15 of traffic mitigation there. It's
16 desperately needed. That's one issue. The
17 second issue, as I said, the
18 infrastructure. Again, if anyone has
19 driven up and down Westphalia Road, it's a
20 windy, narrow, curvy road. I happen to
21 live on a section where it's flat, and out
22 of a two-week pay period, I work from home

1 seven days out of ten. Where I -- my
2 office is directly faces Westphalia Road.

3 I've seen I don't know how many
4 accidents nearly happen because I
5 constantly see cars speeding down and
6 passing on the double lane. That concerns
7 me now that school is back in session.

8 This can be five o'clock in the morning,
9 because I start my workday at six, and I
10 see this happen over and over and over
11 again when cars -- drivers are impatient,
12 and, as soon as they get on this flat part,
13 they're zooming past other cars who are
14 doing the speed limit. You know, so that
15 concerns me.

16 You know, I -- again, I've seen
17 accidents happen not only from the D'Arcy
18 road intersection, which someone testified
19 to, but I've seen near misses just sitting
20 out -- you know, looking out my window
21 because there's been such a significant
22 increase in traffic now with people cutting

1 through Westphalia Road, and that was a
2 direct impact when they were sending people
3 through Westphalia Road when Ritchie
4 Marlboro Road was shut down for that year
5 or so for whatever was happening on Ritchie
6 Marlboro Road.

7 So now that people know, oh, I can
8 cut through Westphalia to get to Ritchie
9 Marlboro, that's what's happening. And,
10 you know, so I'm concerned about the lack
11 of infrastructure that's not in place and
12 the significant increase in traffic.

13 And as Ms. Collins also testified,
14 yeah, I come outside and see the wildlife
15 all the time. I mean, you know, came
16 outside the other day. There's a raccoon
17 sitting on my step looking at me. Okay.
18 Never had -- never seen raccoons in my --
19 on my property before. But, yeah, there's
20 a doe that cuts through my yard, and it's
21 funny because he seems to know the layout
22 of my land, because he actually cuts

1 through and runs out my driveway, and my
2 yard is fenced in.

3 So the deer actually now know the
4 layout of my land and know how to get in
5 and out of my gate. And, yes, I have seen
6 them cross the street going over to that
7 empty property where the church is proposed
8 to be built which is right beside
9 Ms. Collins' property.

10 So I have seen an increase in
11 wildlife because the more -- of course, the
12 wildlife doesn't have anywhere to go. The
13 more development comes, the more it takes
14 away from their natural habitat. So
15 they're looking for places to go.

16 My other comment was -- and this
17 was related to the traffic, in terms of --
18 and I'm sorry, not necessarily the traffic
19 but the one way in and the one way out
20 proposed for the Alexander property. While
21 that may make sense in terms of traffic,
22 how does that make sense in terms of a

1 natural disaster and people have to quickly
2 exit to get somewhere? How do how does
3 that make sense with that -- and if they
4 only have one way in and one way out?

5 So I'd like to hear someone
6 respond to that. That's about all my
7 comments. Thank you so much.

8 HEARING EXAMINER MCNEIL: Thank
9 you, ma'am. Any questions of Ms. Thomas?

10 VINCE BIASE: No questions,
11 Madam Examiner.

12 HEARING EXAMINER MCNEIL: Any
13 other citizens wish to testify that have
14 not testified already?

15 MS. ROBINSON: Hi. This is Jamala
16 Robinson.

17 HEARING EXAMINER MCNEIL: Ms.
18 Robinson, do you swear -- do you swear or
19 affirm, under the penalties of perjury,
20 that the testimony you shall give will be
21 the truth and nothing but the truth?

22 MS. ROBINSON: Yes, I do.

1 EXAMINATION

2 BY HEARING EXAMINER MCNEIL:

3 Q Okay. Give us your address again,
4 please.

5 A 9807 Westphalia Road, Upper
6 Marlboro, Maryland.

7 Q Okay. You may testify.

8 A Thank you. So I would like to say
9 I do agree with what Ms. Thomas said,
10 especially with the natural disaster or
11 emergency things. Having one way in or out,
12 I don't, from a traffic perspective, think
13 that's the best way. But as someone whose
14 neighborhood was under siege a few years ago
15 and we only have one way in or out, it was a
16 nightmare because people couldn't get out to
17 get children, go to work, do anything, and
18 we're stuck in our neighborhood for however
19 many hours.

20 But I do -- Ms. -- Dr. McCall --
21 she -- still she's currently working, and
22 she did ask if I would read her statement.

1 Am I able to read her statement she sent me
2 for her concerns?

3 Mr. Brown and Mr. Biasi, do you
4 have any --

5 ANDREW BROWN: Yeah. No. I don't
6 have any objection. You can read it.

7 HEARING EXAMINER MCNEIL: Okay.

8 ANDREW BROWN: But I ask that you
9 also submit it to the Examiner so she has
10 it for the record file.

11 THE WITNESS: Okay. Yeah. I will
12 email it to her.

13 HEARING EXAMINER MCNEIL: Wait,
14 wait.

15 And, Mr. Biasi?

16 VINCE BIASE: I would also request
17 that it's submitted into the record so that
18 we can review it.

19 THE WITNESS: Okay. No problem.
20 So this is from Dr. Anna McCall. She's at
21 3214 -- no. Sorry. No -- 3208 Valley
22 Forest Road -- Valley Forest Drive in Upper

1 Marlboro which is right next to me.

2 But she says, I, first, want to
3 state for the record I'm against rezoning
4 this property. The infrastructure does not
5 support a more densely populated
6 neighborhood. We cannot continue with
7 destruction of forest canopy and wetlands
8 in Prince George's County in order to
9 develop poorly-constructed, overpriced
10 homes.

11 With that said, understand that --
12 with that said, understand that our voices
13 may not carry much weight in this hearing,
14 but I implore you all to consider that.
15 Decisions about zoning should first address
16 preservation of natural habitat, wildlife,
17 and reforestation. It should be about
18 making neighborhoods walkable and traffic
19 patterns more safe.

20 The development is being promoted
21 as senior living. However, there are no
22 real amenities in the area that would be

1 accessible to many seniors that don't have
2 access to cars. The Westphalia Park that
3 is to be connected to the development is
4 dilapidated and has not had any upgrades in
5 years. Consider requiring the developer to
6 enhance this park for all neighbors to
7 enjoy. Consider requiring that the
8 developers be committed in connecting this
9 development to adjacent areas with
10 sidewalks and trails.

11 Finally, Westphalia has been
12 plagued with speeding and accidents. Prior
13 to rezoning and any new construction, the
14 county should commit to making Westphalia
15 and D'Arcy intersections safe. This area
16 should be made into a traffic circle or
17 another suitable traffic calming design.

18 Signed, Dr. Anna McCall.

19 So that was her statement she'd
20 like on the record.

21 HEARING EXAMINER MCNEIL: Okay.

22 And you know how to email it to us?

1 THE WITNESS: I sure do. I have
2 the -- I can just respond to my personal
3 record email that I was sent; correct?

4 HEARING EXAMINER MCNEIL: Yes.

5 THE WITNESS: Perfect.

6 HEARING EXAMINER MCNEIL: Thank
7 you. I guess you all can't ask questions
8 of Ms. Robinson. Do you have any -- I
9 mean, about Dr. McCall's testimony?

10 ANDREW BROWN: No questions.

11 VINCE BIASE: No questions.

12 HEARING EXAMINER MCNEIL: Okay.
13 Thank you, ma'am. Okay.

14 So, Mr. Biasi, if you don't have
15 anything more.

16 VINCE BIASE: No further testimony
17 today, Madam Examiner. I would like to
18 take this opportunity to thank the Planning
19 staff and the ZHE staff for their
20 consistent coordination on this application
21 as well as everyone for their attendance
22 and participation in the hearing. I think

1 we would submit, on the evidence that's
2 been presented in testimony as well as the
3 exhibits that have been provided into the
4 record, that the applicant has demonstrated
5 that it meets the criteria of approval for
6 a special exception.

7 Accordingly, we would submit and
8 respectfully request the approval of this
9 special exception-associated alternative
10 compliance in TCP2 based upon the
11 substantial evidence that has been
12 provided.

13 HEARING EXAMINER MCNEIL: You
14 know, I think it would be helpful if you
15 could -- I'd like to leave the record open
16 to at -- to ask you. Well, I'm leaving --
17 I'm leaving it open briefly for
18 Dr. McCall's letter, but do you think you
19 could submit a few photos of the
20 surrounding area marking where, you know,
21 where they are, the addresses for them.
22 And I ask that because, I mean, I have some

1 familiarity, but we've got 11
2 councilmembers that you may appeal in a
3 decision to, or they may call it up, and
4 I'm not sure they all do.

5 So since Section 27-317 had your
6 witnesses address whether or not it'll be
7 detrimental to the use or development of
8 adjacent properties, it would be great to
9 see a few of them because I -- even I --

10 I'm familiar with the area, and I had a
11 hard time envisioning where Ms. Collins'
12 property -- you know, like, if you could
13 take a picture across from this property,
14 by Parkside, the church, some of the things
15 you noted. If we could put a picture in
16 the record, that would be very helpful.

17 You think you'd be able to do
18 that?

19 VINCE BIASE: I think we can enter
20 that into the record, but we just would
21 probably want a little bit more instruction
22 on what photos specifically would be

1 helpful.

2 HEARING EXAMINER MCNEIL: Well,
3 you said the general neighborhood.
4 Mr. Ferguson delineated the neighborhood.
5 So just any in that neighborhood and maybe
6 say the distance it is from the property
7 generically --

8 VINCE BIASE: Yeah.

9 HEARING EXAMINER MCNEIL: -- just
10 a few of them. And then the record would
11 close at that time.

12 VINCE BIASE: We can enter those
13 into the record.

14 HEARING EXAMINER MCNEIL: Okay.
15 Thank you so much for that. I thank
16 everyone for appearing today and at the
17 other hearings, and the record will be
18 closed once we get that information, and a
19 decision will be forthcoming shortly
20 thereafter. And anyone, that's a person of
21 record in this case, has an opportunity to
22 appeal that decision to the county council

1 sitting as the district council.

2 I would like to say one more time
3 for the record -- I was hoping that
4 Mr. Brown would say it, but there's been a
5 discussion that this is a rezoning, and I
6 know that everyone here doesn't understand
7 about zoning, but it is not a rezoning of
8 the property. It is requesting a use that
9 the council allows in that RR zone if
10 certain criteria are met.

11 And that was the purpose of the
12 hearing. Mr. Biase was trying to show that
13 the criteria was met.

14 Okay. So I thank you all for
15 being here today and for putting up with
16 our little glitches.

17 VINCE BIASE: Thank you.

18 HEARING EXAMINER MCNEIL: Have a
19 great day, everyone.

20 (End of proceedings.)

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CERTIFICATE OF TRANSCRIBER

I, Jennifer Candela-Alvarez, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; 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.



JENNIFER CANDELA-ALVAREZ

SEPTEMBER 9, 2023

Transcript of Recorded Hearing
Conducted on August 30, 2023

A			
ability	104:7, 125:2	69:15, 69:20,	adjustments
131:7	accesses	72:6, 73:16,	25:17
able	72:2	74:11, 78:2,	administration
26:7, 46:3,	accessible	79:20, 80:20,	5:18, 10:12,
47:2, 47:16,	125:1	81:13, 85:17,	64:3
48:18, 70:19,	accident	99:4, 100:22,	administrative
80:5, 109:15,	81:20, 86:3	119:22, 120:3	9:3, 9:7, 11:21
112:4, 123:1,	accidents	add	administrator
128:17	107:11, 118:4,	52:20, 53:2	47:3
about	118:17, 125:12	added	admission
32:3, 37:13,	accommodate	80:6	111:15
40:20, 52:20,	96:19	adding	admitted
68:15, 70:18,	accomplished	52:2	64:19
74:4, 74:5,	26:17	additional	adopt
77:22, 81:15,	accomplishments	29:4, 51:11,	23:15, 28:4,
87:3, 88:14,	10:16	54:21, 60:7,	29:17, 40:4
94:4, 95:3,	accordingly	78:21, 101:6	adopted
96:17, 96:18,	127:7	address	39:22
97:20, 98:17,	accurate	3:8, 14:4,	advanced
98:20, 99:12,	111:7, 131:6	43:7, 52:14,	46:13
99:16, 102:13,	accurately	62:13, 62:16,	adverse
104:5, 105:19,	6:3, 6:7,	94:17, 105:9,	30:11, 33:19,
115:12, 119:10,	44:12, 44:16,	105:18, 115:10,	75:3, 75:10,
121:6, 124:15,	64:14	115:13, 122:3,	77:16, 81:2,
124:17, 126:9,	acre	124:15, 128:6	88:22
130:7	34:3, 34:4,	addressed	adversely
absolutely	68:1	85:22, 93:9,	23:12, 24:20
33:15, 100:19	acreage	97:14, 99:19	affect
abuts	33:3, 33:10,	addresses	23:12, 24:20,
34:10	34:3, 34:8	127:21	73:14, 106:6
ac	acres	addressing	affecting
1:8	33:4, 33:5,	77:19	107:19
acceptance	33:22, 34:4	adequacy	affirm
51:8	acronym	66:17, 77:15	2:20, 42:17,
accepted	10:2	adequate	62:5, 93:14,
14:13, 15:1,	across	66:15, 78:20,	105:12, 115:3,
65:11	49:21, 59:22,	88:18, 89:15,	121:19
access	60:3, 112:13,	89:19	after
65:19, 66:22,	112:14, 115:22,	adjacent	76:9, 76:12,
67:4, 67:5,	117:4, 117:9,	30:12, 36:8,	76:15, 84:2
67:11, 73:22,	128:13	54:22, 57:16,	again
76:8, 78:13,	act	75:4, 81:2,	21:20, 38:3,
78:15, 81:1,	44:7	90:16, 99:5,	46:13, 47:19,
81:5, 87:7,	action	99:10, 125:9,	49:5, 49:9,
100:21, 101:8,	26:13	128:8	55:18, 55:19,
103:21, 104:6,	actions	adjoining	70:15, 71:10,
	23:7	73:3	71:11, 78:17,
	actually	adjustment	81:14, 85:5,
	35:15, 69:14,	27:1	

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>88:15, 88:20, 98:16, 117:18, 118:11, 118:16, 122:3 against 22:11, 124:3 age 16:20 agencies 8:17, 8:22, 19:16 agency 9:3, 9:7 ago 11:11, 89:17, 122:14 agree 14:22, 30:3, 56:20, 57:3, 83:15, 122:9 ahead 41:1, 48:11, 100:4, 115:11 alexander 8:5, 8:10, 13:5, 13:11, 14:1, 34:10, 34:22, 41:4, 95:7, 102:16, 115:20, 120:20 alexander's 16:14, 16:17, 16:19, 35:7, 115:17 alexanders 34:16, 38:2, 38:9, 60:7, 99:9 all 2:3, 7:5, 13:18, 15:14, 26:12, 29:2, 31:1, 35:12, 48:13, 57:6, 59:8, 63:8, 63:11, 73:7, 75:18, 77:1, 77:3, 77:5, 78:20, 78:22,</p>	<p>80:11, 81:11, 88:2, 88:3, 91:3, 92:19, 95:9, 95:14, 101:14, 102:3, 110:5, 111:6, 111:12, 111:20, 114:2, 114:9, 116:10, 119:15, 121:6, 124:14, 125:6, 126:7, 128:4, 130:14 allen 62:15 allow 26:15, 26:20 allowed 74:7 allowing 75:11 allows 26:13, 130:9 almost 73:6, 73:17, 117:5 along 17:19, 18:6, 18:8, 26:1, 28:20, 49:22, 51:18, 57:14, 74:10, 77:5, 88:13, 96:15, 103:22 already 77:13, 80:12, 84:17, 86:16, 107:6, 116:17, 117:2, 121:14 also 2:9, 5:18, 5:20, 7:8, 8:12, 11:10, 19:5, 21:14, 26:7, 26:15, 34:13, 34:18, 35:2, 36:4, 36:12, 37:18, 38:14, 38:19, 43:19,</p>	<p>44:5, 44:8, 45:7, 50:3, 50:13, 51:19, 53:2, 54:19, 63:3, 95:8, 97:20, 99:1, 110:18, 112:11, 115:17, 115:21, 119:13, 123:9, 123:16 alternative 127:9 although 76:21 always 48:14 amended 29:21, 30:6, 51:11, 52:6, 56:16, 57:1 amenities 124:22 amount 85:14, 85:18 analysis 36:21, 66:7, 67:15, 104:9 analyze 89:14 analyzed 22:8, 22:17, 27:11, 68:22 andrew 9:14, 9:20, 10:10, 10:19, 11:5, 11:10, 11:18, 12:3, 12:9, 12:12, 12:16, 13:2, 13:5, 13:18, 13:21, 14:12, 19:4, 33:1, 33:6, 33:15, 35:12, 36:3, 36:16, 37:10, 37:12, 37:15, 38:12, 38:19, 39:6, 39:13,</p>	<p>39:19, 40:10, 41:22, 42:5, 61:4, 61:12, 65:2, 65:7, 75:21, 99:2, 100:8, 102:5, 108:18, 109:3, 110:5, 110:11, 110:15, 110:17, 110:21, 111:4, 111:6, 111:12, 113:6, 113:16, 114:2, 114:9, 123:5, 123:8, 126:10 animals 41:16, 109:21, 113:21, 114:5 anna 123:20, 125:18 anne 7:6 annual 5:21 annually 11:4 another 34:19, 125:17 answer 82:8, 82:11, 86:19, 99:1 anticipate 58:15, 58:19, 76:20 any 9:2, 9:6, 9:13, 10:15, 10:22, 11:20, 12:1, 14:6, 14:9, 14:12, 20:10, 30:11, 30:17, 32:21, 33:18, 40:14, 41:19, 54:1, 57:15, 58:15, 58:19, 61:2, 61:13, 61:14, 72:21, 74:10, 75:3,</p>
---	--	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>75:14, 79:9, 80:15, 80:16, 81:2, 81:6, 81:19, 98:2, 98:22, 106:17, 111:13, 114:4, 114:10, 121:9, 121:12, 123:4, 123:6, 125:4, 125:13, 126:8, 129:5, 131:9 anybody 41:18, 107:1 anybody's 77:7 anymore 32:15 anyone 13:8, 40:13, 92:19, 108:16, 117:18, 129:20 anything 41:11, 68:21, 84:14, 122:17, 126:15 anywhere 120:12 apologies 39:20 apologize 39:16, 57:12 apparently 12:19 appeal 128:2, 129:22 appearing 129:16 applicable 19:15, 22:11, 74:21 applicant 15:10, 17:10, 19:14, 20:2, 20:7, 20:14, 23:1, 23:4, 23:8, 24:10, 38:21, 65:18, 101:13, 104:4,</p>	<p>127:4 applicant's 14:2, 29:11, 56:11, 92:1, 113:10 applicants 23:5, 24:14 application 15:8, 15:12, 16:10, 16:14, 17:7, 17:16, 18:12, 18:18, 20:13, 20:21, 26:13, 27:9, 30:11, 30:17, 44:19, 45:11, 51:9, 54:4, 54:11, 65:16, 66:4, 67:1, 74:20, 75:3, 75:14, 92:6, 126:20 applications 8:15, 12:8, 19:13 applied 5:9 appropriate 26:15, 26:19, 101:16 approval 19:18, 22:18, 29:12, 30:5, 30:10, 30:16, 53:15, 56:12, 56:22, 66:8, 74:16, 75:2, 75:13, 77:11, 127:5, 127:8 approve 95:16 approved 8:21, 26:12, 66:13, 67:20, 68:20, 77:2, 84:2, 104:11 approximately 33:22</p>	<p>april 29:22, 30:6, 56:17, 57:1 architect 43:19 architects 43:10 architecture 44:5, 61:6 area 15:2, 24:11, 35:8, 35:9, 36:13, 41:5, 41:21, 50:18, 51:12, 51:15, 51:22, 52:2, 52:3, 52:8, 54:16, 65:12, 75:16, 77:7, 81:9, 90:20, 104:3, 106:4, 124:22, 125:15, 127:20, 128:10 areas 23:2, 25:22, 28:20, 125:9 aren't 73:19, 96:11, 109:17 arise 23:8, 24:18 arlington 5:6 around 29:3, 34:22, 36:9, 52:5, 92:16, 95:14, 107:19 arrow 60:15 arterials 72:13 arundel 7:7 asked 39:21, 77:18 asking 37:13, 57:13,</p>	<p>77:15 assess 107:16, 107:17 assist 27:18 assisted 27:22 associated 8:14, 20:12, 27:8, 35:9, 41:6, 43:22, 45:11, 50:12, 53:6, 54:3, 55:20, 63:6, 66:22, 67:15 assume 38:15 assuming 66:13, 67:20 atcs 3:15, 3:16, 3:18, 4:1, 4:2, 10:1 atcs's 7:10 attached 65:22, 68:6, 69:4 attendance 126:21 audio 131:4 august 1:10, 31:16 authenticate 110:7 authority 100:10 avenue 43:11, 76:7, 101:5, 107:10 average 34:1, 34:8 avoid 17:20, 21:12, 21:16, 54:15 avoidance 21:8, 21:10</p>
--	--	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>aware 75:17</p> <p>away 112:21, 115:16, 116:11, 120:14</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>b 112:10</p> <p>bachelor 10:13</p> <p>bachelor's 5:16</p> <p>back 25:10, 49:6, 51:14, 57:18, 91:4, 93:10, 94:1, 111:22, 115:1, 118:7</p> <p>background 5:14, 6:4, 44:13, 44:16, 64:15</p> <p>backing 88:8</p> <p>bah 45:16, 45:19, 45:22</p> <p>ball 36:12</p> <p>ballestero 104:19</p> <p>ballesteros 2:15, 2:17, 3:2, 3:7, 3:10, 9:9, 9:16, 9:18, 10:3, 10:17, 11:1, 11:7, 11:22, 12:5, 12:11, 12:21, 13:4, 13:14, 13:20, 14:11, 14:13, 15:6, 30:22, 31:2, 31:19, 33:2, 40:15, 42:8, 42:11, 103:15, 103:18, 103:19,</p>	<p>104:14</p> <p>baltimore 7:6</p> <p>based 18:2, 23:6, 24:16, 25:15, 37:7, 37:16, 67:19, 68:18, 72:18, 73:7, 79:1, 80:21, 104:2, 127:10</p> <p>basic 10:1, 10:10</p> <p>basically 45:6, 116:9</p> <p>basis 35:18</p> <p>bear 49:9</p> <p>because 25:13, 26:4, 29:2, 32:16, 60:7, 68:9, 81:21, 82:12, 86:6, 95:1, 95:14, 96:14, 96:15, 97:8, 98:8, 102:3, 102:18, 103:11, 106:21, 107:22, 108:3, 109:7, 116:8, 118:4, 118:9, 118:21, 119:21, 119:22, 120:11, 122:16, 127:22, 128:9</p> <p>become 2:9</p> <p>been 4:9, 5:2, 5:11, 7:1, 7:11, 8:21, 11:11, 29:5, 29:8, 32:14, 48:10, 52:10, 63:14, 64:6, 67:4, 70:17, 73:8, 74:13, 89:6, 97:12,</p>	<p>101:15, 104:11, 108:8, 109:21, 114:1, 116:2, 116:10, 116:17, 117:6, 118:21, 125:11, 127:2, 127:3, 127:11, 130:4</p> <p>before 9:2, 9:6, 31:3, 64:8, 76:11, 92:8, 105:4, 111:18, 119:19</p> <p>began 6:17, 6:19, 6:21, 18:9</p> <p>being 11:13, 14:13, 14:16, 14:21, 26:3, 29:2, 41:12, 41:13, 52:21, 60:9, 82:19, 85:13, 85:18, 96:8, 96:18, 97:17, 110:1, 124:20, 130:15</p> <p>believe 2:4, 25:20, 31:7, 45:19, 64:17, 75:9, 78:16, 79:5, 86:20, 100:1, 104:14, 108:9, 111:3</p> <p>beltway 72:17, 73:4, 101:9</p> <p>benefit 73:21, 75:7, 75:11, 100:22</p> <p>beside 120:8</p> <p>best 78:14, 84:18, 102:1, 122:13, 131:7</p> <p>best-case 101:13</p>	<p>better 4:6, 74:7, 84:7, 84:11, 84:14, 86:14</p> <p>between 98:10, 100:14, 101:3</p> <p>biase 2:11, 2:13, 3:5, 11:15, 11:17, 15:3, 15:5, 30:21, 31:8, 31:12, 31:16, 39:15, 39:16, 39:17, 39:18, 39:19, 42:9, 42:10, 42:14, 43:1, 45:13, 45:18, 46:6, 46:8, 46:14, 47:2, 47:9, 47:11, 47:15, 47:19, 48:4, 48:7, 48:13, 48:16, 48:17, 50:4, 57:4, 59:10, 59:12, 59:14, 59:17, 60:11, 60:14, 61:4, 61:9, 61:19, 62:1, 62:11, 64:18, 65:13, 70:6, 71:3, 71:6, 71:8, 71:13, 71:15, 75:18, 80:19, 81:11, 85:2, 91:16, 91:17, 91:19, 91:22, 92:3, 92:11, 92:14, 93:7, 111:16, 121:10, 123:16, 126:11, 126:16, 128:19, 129:8, 129:12, 130:12, 130:17</p> <p>biasi 47:8, 60:6,</p>
--	--	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>70:22, 71:2, 111:13, 123:3, 123:15, 126:14 bigger 113:15 biggest 17:17 binder 45:20 bit 48:5, 50:4, 79:4, 87:10, 87:11, 99:3, 107:4, 128:21 blank 47:18, 47:19 block 106:13 board 26:18 board's 52:10 bond 7:22 book 10:9 books 10:6 both 5:12, 8:9, 44:4, 99:6 bothering 105:1 bottom 49:12 boulevard 101:9 brakes 117:11 briefly 5:13, 43:21, 63:5, 127:17 bringing 49:1 broad 64:4 brown 9:13, 9:14,</p>	<p>9:20, 10:10, 10:19, 11:5, 11:10, 11:18, 12:3, 12:9, 12:12, 12:16, 13:2, 13:5, 13:18, 13:21, 14:12, 16:15, 19:5, 32:21, 33:1, 33:6, 33:15, 35:12, 36:3, 36:16, 37:10, 37:12, 37:15, 38:12, 38:19, 39:6, 39:13, 39:19, 40:10, 41:22, 42:5, 61:2, 61:4, 61:12, 65:1, 65:2, 65:7, 75:21, 98:22, 99:2, 100:8, 102:5, 108:18, 109:3, 109:13, 110:5, 110:11, 110:15, 110:17, 110:21, 111:4, 111:6, 111:12, 113:6, 113:16, 114:2, 114:9, 123:3, 123:5, 123:8, 126:10, 130:4 buffer 29:7, 50:12, 56:4 building 23:9, 113:20 built 41:13, 68:20, 69:21, 74:13, 75:8, 95:18, 96:2, 97:17, 115:22, 116:13, 120:8 burke 16:19 burnie 62:17</p>	<p>burton 92:18, 92:21, 92:22, 93:2, 93:6, 93:18, 94:9, 94:11, 94:16, 98:3, 98:6, 98:16, 99:14, 101:6, 102:6, 102:10, 102:14, 104:12, 104:16 burton's 99:1 business 3:8, 3:16, 5:18, 10:12, 43:7, 62:13, 62:16 busy 95:10, 97:5</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>c 72:4, 90:4, 99:6, 113:2 ca 45:13 call 2:14, 42:14, 47:3, 62:2, 68:14, 77:6, 128:3 called 90:3 calming 125:17 calvert 7:8 came 119:15 camera 40:19 can't 46:8, 98:8, 107:21, 110:3, 114:15, 126:7 candela-alvarez 1:22, 131:2,</p>	<p>131:15 cannot 124:6 canopy 124:7 capacity 16:9, 16:12, 27:12, 28:7, 30:9, 30:15, 73:11, 74:18, 87:6 capital 23:18 career 9:4 carry 72:10, 73:2, 124:13 cars 77:3, 96:14, 97:11, 117:5, 118:5, 118:11, 118:13, 125:2 case 11:20, 12:1, 12:10, 12:15, 67:22, 68:5, 72:12, 72:19, 92:1, 129:21, 131:9 caught 98:12 cause 30:11, 75:3, 81:2, 101:2 caused 22:21 cecil 7:8 center 3:11 central 58:8 centrally 104:7 certain 130:10 certainly 50:1, 69:1</p>
---	---	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>certificate 131:1 certify 11:8, 131:3 change 51:7, 67:19, 68:14, 83:17, 108:3 changed 25:8, 68:13, 85:13, 116:6 changing 83:21, 95:19 character 89:5 charles 7:8 chief 92:1 children 122:17 church 8:8, 34:12, 34:19, 115:21, 120:7, 128:14 circle 125:16 circles 49:16 circumstances 20:5, 23:6, 24:15 cite 35:18 citizens 121:13 city 7:6 civil 5:16, 8:13, 9:10, 10:14, 11:16, 11:17, 11:18, 11:20, 14:14, 14:20, 15:2, 15:14, 27:13, 28:8, 30:10, 30:16, 40:3, 40:7,</p>	<p>103:9 cl 13:17 clarification 39:15 clarify 31:11, 67:13, 80:21, 83:21 clarifying 30:1, 30:7, 56:18, 57:2 clarity 94:4 clarkson 5:17, 5:18, 10:13 classification 72:11 clear 109:17 client 4:20, 34:13 clients 4:7 close 129:11 closed 129:18 closer 21:11, 102:22, 104:12, 104:15 cluster 18:6, 49:8, 49:11 clustered 21:11, 29:3 clusters 51:2 co-host 47:6, 71:10, 71:12 code 5:19, 16:1, 32:7, 45:7 collect 72:9 collected 85:19</p>	<p>collecting 85:14 collector 72:6, 72:9, 74:3, 81:22, 82:2, 82:16, 82:19, 82:21, 83:8, 85:11, 85:17 collectors 72:5, 72:22, 73:2, 73:22, 83:7 collins 40:16, 40:19, 40:20, 41:2, 41:10, 41:22, 42:4, 42:7, 57:12, 59:1, 59:5, 59:8, 59:9, 59:19, 60:4, 92:16, 104:20, 104:22, 105:7, 105:10, 105:16, 105:20, 108:17, 108:18, 109:11, 110:6, 111:21, 113:6, 119:13, 120:9, 128:11 come 10:8, 40:19, 41:14, 46:11, 59:21, 77:4, 89:1, 95:12, 106:3, 108:7, 113:22, 117:1, 119:14 comes 2:7, 41:8, 59:6, 120:13 coming 82:4, 87:17, 97:1, 97:10, 97:11, 98:13, 101:7, 106:13, 109:19, 112:16 comment 14:3, 36:19,</p>	<p>99:3, 120:16 comments 52:14, 52:19, 80:2, 84:19, 101:20, 121:7 commercial 7:14, 44:3, 63:22 commission's 23:19 commit 125:14 committed 125:8 commonly 23:1, 24:13 communities 82:4 community 73:14, 75:11, 84:8, 93:8, 95:17, 95:18, 96:2, 96:6, 96:19, 97:12, 97:17, 98:17, 104:4, 116:3, 116:16 community's 104:5 compact 18:5 company 4:3, 10:5, 43:18 comparative 36:21 compare 69:6 compared 36:22, 67:22, 68:2 comparison 38:15, 69:2, 69:12, 70:1 complete 11:2 completed 53:1, 66:16</p>
---	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>compliance 44:6, 127:10 computer 46:1 conceived 17:8 concentrated 49:22 concept 18:17, 104:10 concern 95:2, 96:10, 104:5, 116:12 concerned 119:10 concerning 13:22, 38:12, 113:9 concerns 81:20, 93:9, 94:3, 118:6, 118:15, 123:2 conclude 37:5, 38:19, 91:22 conclusions 14:6, 14:10, 40:6 condition 23:9, 26:4, 111:8 conditions 22:20, 23:6, 24:8, 24:18, 26:9, 30:5, 35:21, 36:20, 37:3, 38:13, 56:22 confer 23:3 configured 18:4 conflict 21:12, 101:3 conflicts 74:10 conform 27:14, 53:11</p>	<p>conforms 27:17 confront 87:21 connect 56:8, 72:21 connected 125:3 connecting 107:12, 125:8 connection 55:21, 89:10 connects 72:21 conservation 19:19, 20:1, 20:3, 20:17, 22:14, 22:19, 26:16, 27:7, 27:15, 28:18, 31:6, 35:8, 35:9, 36:13, 44:6, 44:7, 45:1, 45:10, 51:12, 52:1, 52:21, 53:12, 53:16 consider 82:16, 97:22, 124:14, 125:5, 125:7 consideration 41:11, 41:19, 107:2 considered 24:15, 85:11, 109:22 considering 95:22 consistent 74:20, 92:5, 126:20 consolidate 67:4, 74:8 constantly 118:5 constraints 100:10</p>	<p>constructed 39:8 construction 8:2, 58:17, 106:2, 125:13 consulting 10:4, 18:10 contacted 108:2 contingent 95:19 continually 68:14 continue 59:12, 124:6 continued 19:9 continues 51:22, 97:9 continuing 5:21, 11:3 continuously 5:11 contract 4:20, 63:14 contracts 64:5 control 4:19, 7:12, 7:22, 19:10, 87:6 controlled 67:7 coordinated 66:9 coordination 8:3, 18:10, 92:5, 126:20 copy 6:2, 13:7, 44:11, 64:12, 109:8 corner 17:21, 29:1, 50:18, 51:13, 54:17 correct 11:6, 13:19,</p>	<p>13:20, 36:1, 36:2, 36:5, 37:20, 38:17, 38:18, 40:8, 40:9, 66:6, 66:20, 99:16, 99:22, 100:6, 100:20, 102:4, 102:5, 109:1, 110:19, 111:10, 111:11, 114:7, 126:3 correspondence 25:9 could 25:8, 26:17, 33:13, 39:7, 47:17, 50:16, 58:21, 59:3, 68:1, 69:21, 83:11, 94:16, 94:17, 98:5, 109:10, 109:11, 116:7, 127:15, 127:19, 128:12, 128:15 couldn't 112:18, 122:16 council 14:3, 31:4, 58:21, 129:22, 130:1, 130:9 councilmembers 128:2 councilperson 104:3 counsel 131:8 counties 4:17 county 4:16, 6:16, 7:6, 7:15, 8:17, 16:1, 16:3, 16:6, 19:19, 20:16, 22:13, 41:8, 41:9, 45:6, 52:22,</p>
--	--	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>53:16, 53:20, 63:15, 63:18, 64:9, 82:22, 100:11, 124:8, 125:14, 129:22 county's 88:15 couple 108:8 course 120:11 courses 11:6 court 9:2, 9:6 cover 41:4, 41:5 cows 116:8 crain 62:16 craziness 77:5, 77:19 crazy 76:9 criteria 22:8, 22:18, 127:5, 130:10, 130:13 critical 26:2 cross 120:6 crossings 29:10 crosstalk 85:1, 85:2, 85:4, 85:6, 93:11, 103:1 curb 100:17, 106:12 curbs 78:21, 106:16 curious 12:3 current 3:17, 3:22, 62:22, 67:21,</p>	<p>113:9 currently 3:13, 43:12, 62:18, 81:1, 81:6, 96:10, 102:17, 116:1, 122:21 curve 106:10 curvy 117:20 cut 119:8 cuts 119:20, 119:22 cutting 48:3, 48:5, 56:6, 118:22</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>d'arcy 76:10, 77:6, 78:1, 81:18, 86:22, 89:11, 91:1, 97:11, 99:7, 100:15, 107:11, 118:17, 125:15 dangerous 98:13 data 16:21, 17:4, 17:5, 41:3, 41:7 date 111:1 dated 32:3 dave 18:11 david 62:2, 62:8, 62:15, 65:2, 70:16, 76:16, 77:9, 78:2, 78:5, 78:9, 78:16, 82:20, 83:3, 83:6, 83:10, 87:1,</p>	<p>90:6, 90:13, 90:22, 91:8, 100:5, 103:5, 103:8, 103:11 day 41:17, 81:19, 84:9, 86:8, 86:9, 111:9, 112:17, 119:16, 130:19 day-to-day 19:7 days 118:1 de 73:17, 76:22 dead 41:16 deal 101:16 december 16:16 decide 117:8 decided 113:21 decision 128:3, 129:19, 129:22 decisions 124:15 decrease 69:21 dedicated 52:22 deems 26:22 deer 112:13, 112:19, 120:3 deferral 25:1 define 72:18 defined 85:17 defines 72:3</p>	<p>definitely 82:21, 98:10, 106:5 definitively 26:22 degrees 10:18 delineated 129:4 deliverance 8:8, 34:12 demonstrate 28:9, 48:20, 55:12 demonstrated 127:4 demonstrates 28:14 denied 23:5, 38:21 densely 124:5 density 50:2, 51:17 department 32:1, 32:12, 32:13 depicted 38:4 deprive 23:1, 24:10 describe 5:14, 43:21, 46:19, 63:5 described 15:21, 21:5, 21:9 describes 6:11, 8:12 design 7:19, 7:20, 7:21, 7:22, 16:9, 16:12, 18:6, 29:2, 63:12, 63:13, 73:21, 74:12, 87:3, 88:11, 125:17</p>
--	---	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>designated 100:2 designed 67:4, 75:12, 116:13 designers 4:13 desire 4:5 desperately 117:16 destroyed 41:13 destroying 114:4 destruction 41:18, 112:12, 112:15, 124:7 detached 34:17, 35:2 detail 78:18 details 67:14 determination 21:4 determine 33:18, 77:16 detrimental 30:17, 75:14, 81:7, 128:7 develop 68:7, 124:9 developable 24:11, 39:8 developed 39:12, 60:10, 103:20 developer 125:5 developers 125:8 development 4:15, 6:18, 6:20, 6:21, 7:17, 8:15, 8:18, 8:22, 12:7, 17:22,</p>	<p>18:6, 18:16, 18:17, 21:11, 23:20, 24:1, 24:7, 25:2, 25:22, 26:20, 29:22, 30:6, 35:10, 38:5, 49:8, 56:17, 57:1, 63:22, 65:21, 67:3, 67:21, 72:20, 73:10, 74:11, 76:18, 89:7, 89:10, 90:16, 95:14, 104:10, 113:11, 114:4, 120:13, 124:20, 125:3, 125:9, 128:7 developments 49:12, 74:2, 100:13, 116:14 devin 42:15, 42:21, 43:9, 47:17, 47:20, 48:2, 48:6, 48:9, 48:14, 61:17 difference 68:9 different 83:7, 86:13, 87:2, 89:16, 89:19 digital 131:4 dilapidated 125:4 diminished 116:10 dire 9:15 direct 119:2 direction 83:4, 95:22, 96:9, 100:12 directly 12:13, 19:2,</p>	<p>34:11, 72:22, 87:13, 106:1, 115:18, 115:22, 118:2 disagree 82:17 disaster 121:1, 122:10 discuss 21:16 discussed 51:19, 54:12 discussing 25:10 discussion 130:5 distance 104:8, 129:6 distances 78:19 district 130:1 division 43:20 doctor 79:20, 94:9 document 12:20, 13:17, 13:21, 40:1, 40:2, 40:3 documents 8:2, 19:2, 19:12 doe 119:20 doing 43:4, 65:6, 118:14 done 73:8, 114:1 door 117:13 dot 71:22 double 118:6 doubt 89:8</p>	<p>down 57:17, 57:21, 59:6, 59:19, 61:19, 61:20, 61:21, 78:22, 81:16, 82:4, 87:8, 87:11, 87:16, 95:13, 96:2, 97:18, 106:3, 106:22, 110:1, 112:20, 117:1, 117:19, 118:5, 119:4 dozens 7:5 dpie 17:12, 104:11 dr 92:16, 92:22, 94:3, 94:9, 94:10, 94:16, 99:14, 101:6, 122:20, 123:20, 125:18, 126:9, 127:18 draft 18:20 drafted 16:22 drafting 22:16 drain 50:19, 58:3 drainage 7:20, 106:10, 106:11, 106:19 draining 38:6, 38:10, 57:17, 57:21, 58:10 drawings 102:21 drive 3:11, 76:17, 86:9, 87:10, 94:21, 95:13, 123:22 driven 109:21, 117:19</p>
---	--	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>driver's 117:12</p> <p>drivers 87:21, 118:11</p> <p>drives 84:9</p> <p>driveway 41:14, 59:22, 74:3, 87:14, 88:2, 96:12, 96:22, 103:1, 103:12, 104:13, 106:6, 106:13, 109:18, 112:13, 112:14, 112:16, 120:1</p> <p>driveways 74:6, 74:9, 87:17, 88:8, 88:13, 95:4</p> <p>driving 87:8, 97:21, 116:19</p> <p>drops 106:22</p> <p>drove 95:10</p> <p>due 26:8, 38:22, 77:4</p> <p>dumping 82:3</p> <p>during 80:1</p> <p>duties 3:21, 43:22</p> <p>dwellings 65:22</p> <p>dying 112:22, 113:5</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each 74:3, 83:2, 83:4, 84:17, 87:13, 95:22, 96:9, 100:12</p> <p>earlier 51:20</p>	<p>earned 5:7, 5:10</p> <p>easement 52:1, 52:3</p> <p>easements 52:21</p> <p>easier 102:17</p> <p>east 34:21, 38:6, 38:8, 50:16, 103:22</p> <p>edification 90:2</p> <p>education 5:15, 5:21, 6:7, 11:3</p> <p>educational 5:14, 6:4, 10:15, 10:19, 10:22, 44:13, 64:15</p> <p>effect 30:17, 75:3, 75:10, 75:14, 81:2, 81:7, 88:22</p> <p>egress 101:2</p> <p>eight 11:3, 63:10</p> <p>either 23:10, 32:4, 61:6, 100:4, 100:6</p> <p>elderly 65:22</p> <p>electronically 12:19</p> <p>else 41:20, 91:12, 92:19, 114:14</p> <p>email 108:20, 123:12, 125:22, 126:3</p> <p>emailed 16:16</p> <p>emergency 122:11</p>	<p>employed 3:14, 3:15, 20:21, 43:12, 54:10, 62:19, 131:9</p> <p>empty 120:7</p> <p>encompasses 41:9</p> <p>end 46:9, 106:19, 130:20</p> <p>enforced 32:12</p> <p>enforcement 22:22</p> <p>engage 15:10</p> <p>engaged 15:13</p> <p>engineer 4:14, 4:21, 4:22, 5:3, 5:4, 6:9, 6:11, 6:14, 7:3, 7:11, 8:6, 8:12, 11:20, 12:10, 12:12, 12:14, 19:5, 79:4</p> <p>engineer-in 16:22</p> <p>engineering 5:6, 5:16, 6:18, 6:20, 6:22, 7:18, 8:14, 9:11, 10:14, 11:17, 11:18, 14:15, 14:20, 15:2, 15:14, 16:9, 16:12, 19:8, 19:12, 27:13, 28:8, 30:10, 30:16, 40:3, 40:7, 63:9, 63:11, 64:8, 64:21, 73:12, 73:13, 74:19,</p>	<p>88:10</p> <p>engineers 4:12, 63:4, 63:16, 87:5</p> <p>engineers-in-tra- ining 4:13</p> <p>enhance 125:6</p> <p>enjoy 125:7</p> <p>enjoyed 23:2, 24:13</p> <p>enough 10:11, 96:11</p> <p>ensure 77:3</p> <p>enter 128:19, 129:12</p> <p>entire 87:22, 88:13</p> <p>entirety 41:9</p> <p>entitle 4:15</p> <p>entitlements 8:2, 19:8, 19:13</p> <p>entrance 60:3, 86:13, 86:20, 90:2, 102:16, 102:22</p> <p>entry 95:2</p> <p>envelope 24:7, 39:9</p> <p>environmenta 22:13</p> <p>environmental 14:7, 16:3, 16:6, 17:5, 18:7, 20:11, 20:19, 20:22, 21:1, 21:6, 21:15, 23:19, 27:20, 28:10, 28:15, 35:21, 36:20, 43:19,</p>
--	---	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>44:5, 45:8, 46:17, 48:21, 53:20, 54:2, 54:9, 54:13, 55:7, 55:13, 55:16, 61:7 envision 87:15 envisioning 128:11 eps 24:1 equally 97:12 erosion 7:22 esc 1:8 especially 83:16, 86:5, 122:10 essentially 50:21, 52:2, 55:21 estimates 8:1 evaluate 65:19 evaluated 22:9, 34:5, 66:18 evaluation 25:2, 25:16, 26:22 even 12:6, 67:9, 73:19, 110:3, 113:15, 128:9 evening 69:6, 69:11, 69:17 ever 9:1, 11:13, 11:19 every 11:9, 41:17, 86:7, 86:9, 87:19</p>	<p>everybody 41:20, 107:21 everyone 43:8, 76:21, 96:20, 101:18, 126:21, 129:16, 130:6, 130:19 everything 81:22, 82:3, 99:14 evidence 110:9, 127:1, 127:11 exacerbate 113:12 exactly 72:6, 86:6, 102:11, 102:19 exam 5:6 examination 3:4, 42:22, 62:10, 93:19, 115:8, 122:1 examiner's 80:22, 108:20 exception 13:6, 13:12, 14:1, 15:12, 15:18, 15:21, 16:13, 18:12, 18:14, 18:20, 20:12, 22:10, 25:14, 25:18, 26:13, 27:2, 29:13, 33:8, 33:18, 51:9, 52:11, 53:7, 54:4, 56:12, 66:8, 67:18, 74:16, 83:22, 127:6 exception-associ- ated 127:9 excuse 35:8, 37:7, 110:15</p>	<p>exhibit 6:1, 22:2, 27:21, 29:14, 31:7, 31:10, 44:10, 45:15, 45:17, 46:3, 53:8, 55:4, 55:8, 56:13, 59:16, 61:20, 61:21, 64:11, 66:4, 67:14, 70:4, 70:7, 70:8, 71:5, 71:17, 111:19, 112:7, 113:2 exhibits 2:5, 127:3 existing 38:7, 52:1, 52:3, 56:8, 58:2, 73:14 exit 121:2 experience 6:5, 6:8, 6:12, 6:13, 8:13, 32:14, 44:14, 44:17, 64:16, 87:20 expert 9:2, 9:6, 9:10, 14:14, 14:16, 14:17, 15:1, 25:11, 27:12, 28:7, 30:9, 30:15, 40:5, 40:7, 61:5, 64:7, 64:20, 65:11, 73:11, 74:18, 78:14, 84:12 explain 2:8, 59:21, 66:21, 109:18, 110:3 explanation 95:3 expressways 72:17</p>	<p>extend 54:20 extends 50:22, 55:21 extension 56:1 extensive 6:11, 28:21, 36:8 extensively 21:14, 27:11, 35:1 extent 21:3, 21:5, 24:11, 28:12, 28:17, 55:15</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faces 118:2 facilities 66:15, 66:18, 88:18 facility 58:7 fact 30:5, 56:21, 75:6, 77:10, 100:20, 117:9 faint 59:10 fair 111:7 fall 17:6 falling 41:15, 110:2, 113:5 familiar 15:6, 15:9, 15:16, 15:19, 16:2, 16:5, 19:17, 19:21, 29:20, 31:21, 32:2, 32:4, 32:6, 32:8, 44:18, 44:21, 53:5, 53:14,</p>
---	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>53:18, 53:19, 56:15, 65:14, 74:14, 76:3, 77:7, 99:13, 128:10 familiarity 8:4, 128:1 far 74:12, 89:4 farm 35:10 farmland 116:9 farms 96:3 fatima 71:9, 109:4, 109:10, 109:14 features 18:8, 20:5, 20:11, 21:1, 27:20, 28:11, 28:16, 35:20, 39:1, 46:17, 48:21, 54:2, 54:13, 55:8, 55:14, 55:17 february 18:13 federal 8:17, 64:1 feedback 17:9 feet 74:4, 77:22, 78:10 fence 50:4 fenced 120:2 ferguson 129:4 few 122:14, 127:19, 128:9, 129:10 field 9:10, 11:12, 14:14, 14:20,</p>	<p>17:13, 64:20 fields 36:12 file 123:10 filed 13:22 finally 125:11 financial 131:10 find 69:14 finding 24:5 findings 17:12, 19:18, 19:22, 30:4, 53:15, 56:21, 74:15 fine 43:5, 50:7 firm 62:20, 63:2, 63:10 first 6:17, 10:8, 18:19, 51:5, 63:19, 68:11, 95:1, 102:21, 114:21, 116:7, 116:20, 124:2, 124:15 five 34:4, 118:8 flat 36:11, 117:21, 118:12 folks 11:2, 17:10 follow 80:22 following 45:6 follows 55:22 foot 56:3</p>	<p>foregoing 131:5 forest 35:7, 44:6, 51:16, 51:21, 52:5, 54:22, 94:21, 95:13, 114:5, 123:22, 124:7 forests 52:7 forgotten 116:19 formal 5:15, 66:7 forth 25:10 forthcoming 129:19 forum 101:16 forward 75:12 found 68:22 founders 10:7 four 108:21 four-way 97:7 fox 112:18 frederick 7:7 freeway 72:16 freeways 72:16 front 8:9, 10:7, 87:12, 102:19 frontage 88:1, 88:14, 104:8 full 3:8, 6:22, 43:6, 62:13</p>	<p>fullest 21:3, 21:4, 28:12, 28:17, 55:15 funny 119:21 further 18:5, 21:16, 23:14, 25:16, 28:3, 29:16, 69:14, 73:4, 74:1, 79:6, 82:4, 87:10, 126:16 future 25:2, 26:16, 26:19, 26:21</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>garage 87:14 gate 120:5 general 129:3 generally 33:9, 46:20, 48:20, 49:2 generate 68:1, 68:4, 69:5, 69:8, 69:9, 69:16 generation 68:2 generically 129:7 george's 4:16, 6:15, 7:8, 7:15, 16:1, 16:3, 16:6, 19:19, 20:16, 22:12, 41:8, 53:16, 53:20, 63:17, 64:8, 124:8 gis 16:21, 18:2, 37:8, 37:16,</p>
---	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>38:4, 41:3, 41:7 give 2:22, 42:19, 62:6, 93:16, 97:18, 105:13, 115:5, 115:10, 121:20, 122:3 given 27:4, 81:19, 86:21, 101:12 glen 62:17 glitches 130:16 go 41:1, 48:11, 50:8, 51:7, 74:1, 74:4, 75:12, 77:12, 78:17, 86:8, 87:9, 93:10, 93:22, 100:4, 108:11, 114:16, 115:11, 120:12, 120:15, 122:17 god 8:8, 34:12 goes 55:22, 66:13 going 2:6, 10:5, 38:15, 41:20, 52:16, 57:22, 67:10, 68:17, 71:9, 73:19, 77:5, 82:5, 86:7, 88:3, 88:19, 89:16, 91:3, 96:13, 100:13, 100:18, 101:8, 106:2, 106:3, 106:8, 106:9, 106:12, 106:14, 108:11, 109:17, 111:20, 111:21, 112:12, 112:15, 112:21, 113:22, 115:18,</p>	<p>116:3, 120:6 good 3:6, 9:16, 9:19, 9:20, 43:2, 43:3, 43:5, 43:8, 48:10, 65:8, 73:9, 77:10 google 78:3 gotten 76:6, 95:10 government 8:21 grade 67:7 grades 67:6 grading 7:20 granting 23:3, 23:11, 24:20, 74:20 great 9:18, 71:13, 71:14, 95:6, 128:8, 130:19 greatly 17:14, 116:4 greenery 112:21 grid 73:6 ground 110:2, 110:3 guess 32:16, 39:14, 59:21, 84:12, 90:2, 90:3, 99:3, 114:21, 126:7 guests 96:13, 96:14 guidance 45:7 guidelines 79:1 gutter 100:17</p>	<p>gutters 78:22 guys 82:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>habitat 120:14, 124:16 hand 50:10, 108:11 handle 85:14, 116:14 happen 115:16, 117:20, 118:4, 118:10, 118:17 happening 119:5, 119:9 happens 96:11 happy 70:9, 93:11 hard 49:14, 128:11 hardship 20:7, 22:22 hatcher 13:17 hate 77:6 hazard 97:14 head 78:7 health 30:18, 75:15, 81:7 hear 40:17, 57:10, 59:8, 59:9, 61:7, 94:7, 95:3, 116:8, 121:5 heard 60:19, 86:1, 104:5 hearings 84:2, 129:17</p>	<p>hello 65:2, 102:7 help 59:13, 70:14 helpful 127:14, 128:16, 129:1 heppe 8:7 here 14:3, 23:16, 28:4, 29:17, 36:19, 40:13, 47:12, 51:15, 59:18, 60:15, 78:3, 79:11, 86:1, 92:19, 106:22, 107:13, 107:22, 108:9, 130:6, 130:15 hereby 131:3 hi 79:12, 79:19, 81:14, 121:15 hierarchy 72:18 high 51:17 higher 50:1, 68:19 higher-level 72:11, 73:3 highest 51:16 highway 62:16, 64:3, 72:6, 82:22, 117:9 hired 4:2 historic 100:2, 100:6 hold 10:18 holding 25:12 home 35:10, 117:22</p>
---	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>homeowner 115:18</p> <p>homes 34:17, 124:10</p> <p>hop 112:13</p> <p>hopefully 77:19</p> <p>hoping 130:3</p> <p>horrendous 84:6</p> <p>hour 73:18</p> <p>hours 11:3, 11:4, 122:19</p> <p>house 72:13, 74:3, 88:7, 109:19, 115:16</p> <p>houses 35:2, 87:12, 87:19, 95:17</p> <p>housing 68:6, 69:4, 73:14, 116:14</p> <p>how's 50:6</p> <p>however 24:22, 49:21, 100:19, 122:18, 124:21</p> <p>huge 90:16</p> <p>human 43:9, 43:13, 43:15</p> <p>husband 98:10</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 21:10, 95:6</p> <p>identification 112:8</p> <p>identified 29:13, 33:7,</p>	<p>33:17, 33:21, 34:2, 37:4, 37:17, 38:2, 45:15, 53:7, 56:13, 70:4</p> <p>identify 59:3, 59:5, 109:12</p> <p>impact 30:11, 33:19, 57:15, 76:22, 77:17, 119:2</p> <p>impacted 29:2, 55:17, 106:1, 115:19</p> <p>impacting 54:18</p> <p>impacts 17:20, 20:11, 21:17, 21:18, 21:19, 26:2, 27:19, 29:6, 52:7, 54:2, 54:15, 55:7, 55:20, 56:2, 58:19</p> <p>impatient 118:11</p> <p>implementation 20:6</p> <p>implore 124:14</p> <p>important 25:4, 52:4</p> <p>importantly 73:20</p> <p>improve 79:7, 87:6</p> <p>improved 96:18</p> <p>improvement 75:7</p> <p>improvements 25:17, 27:2, 98:18, 100:17</p> <p>included 7:16, 17:7, 17:8, 17:15,</p>	<p>22:2, 27:20, 45:20, 55:4, 55:8, 64:11, 66:4, 67:14, 70:1, 103:21</p> <p>includes 5:15, 36:14</p> <p>including 7:18, 18:11, 96:20</p> <p>incorporate 23:15, 28:3, 29:17</p> <p>incorporated 21:10</p> <p>increase 69:20, 89:9, 95:16, 101:11, 118:22, 119:12, 120:10</p> <p>increased 99:18, 107:6, 116:5</p> <p>indicate 38:14</p> <p>indicated 101:6</p> <p>individual 74:6, 88:13</p> <p>industrial 7:14, 63:22</p> <p>influenced 17:14</p> <p>influences 17:17</p> <p>information 80:6, 129:18</p> <p>infrastructure 116:13, 117:18, 119:11, 124:4</p> <p>ingress 101:1</p> <p>inside 96:6, 96:16</p> <p>installation 56:3</p> <p>institutional 7:14, 44:4</p>	<p>instruction 128:21</p> <p>interest 131:10</p> <p>interesting 48:2, 77:8, 77:9</p> <p>interests 67:19</p> <p>interning 6:17</p> <p>intersection 67:8, 76:9, 76:17, 77:14, 78:1, 81:18, 85:20, 86:6, 86:10, 86:12, 86:16, 86:22, 88:20, 97:5, 99:7, 99:14, 99:17, 100:16, 107:11, 116:17, 116:20, 118:18</p> <p>intersections 125:15</p> <p>introduce 2:5</p> <p>introduced 16:18</p> <p>inventory 17:6, 17:13, 26:6, 36:7</p> <p>involved 19:9, 45:4, 103:12</p> <p>involvement 20:9, 27:4</p> <p>isolated 24:6, 50:19, 51:3</p> <p>issue 31:5, 93:10, 117:16, 117:17</p> <p>issues 45:22, 46:18, 65:20, 94:1, 99:19, 101:17, 101:22</p>
---	--	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>issuing 8:18 it'll 91:4, 128:6 iterations 51:8 itself 72:20, 87:4 iv 15:22</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jamala 81:14, 121:15 january 4:9, 16:18, 18:9 jennifer 1:22, 131:2, 131:15 job 1:20 judicial 11:21 jumbled 56:7 june 5:8, 32:3 justification 12:17, 12:22, 13:7, 13:13, 13:15, 18:22, 21:22, 22:4, 22:6, 22:17, 23:16, 23:21, 27:5, 27:19, 28:1, 28:5, 29:12, 29:16, 29:18, 33:8, 40:1, 55:2, 55:7, 56:11 justify 36:18, 83:13</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 117:11 keeps 56:6</p>	<p>kenneth 99:9 key 63:15, 67:8, 77:17 kid 98:8 kim 108:14, 114:16, 114:19, 115:1, 115:7 kimberly 114:19 kind 49:17, 49:20, 58:7, 87:20 kinds 83:7 know 20:8, 21:16, 24:22, 29:4, 29:5, 34:3, 34:8, 34:14, 34:18, 34:22, 44:8, 51:1, 51:2, 54:14, 68:5, 68:22, 77:13, 77:22, 78:11, 79:3, 79:10, 80:1, 81:20, 84:6, 84:21, 85:21, 86:6, 86:9, 88:5, 88:7, 88:12, 88:16, 89:2, 89:6, 91:6, 91:7, 91:9, 95:3, 95:10, 97:21, 98:5, 100:5, 106:11, 107:9, 107:21, 109:3, 109:16, 111:19, 116:21, 117:2, 118:3, 118:14, 118:16, 118:20, 119:7, 119:10, 119:15, 119:21,</p>	<p>120:3, 120:4, 125:22, 127:14, 127:20, 128:12, 130:6 knowledge 37:22, 51:6, 52:9, 54:8, 131:7</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack 119:10 lagoe 4:8 laid 16:20, 18:2, 78:22 land 4:13, 4:15, 6:18, 6:20, 6:21, 7:17, 14:16, 17:4, 23:9, 40:2, 57:17, 110:1, 114:5, 116:9, 119:22, 120:4 landing 13:6, 13:11, 14:1 landscape 43:10, 43:18, 44:4, 61:6 lane 82:18, 83:2, 83:3, 84:16, 84:17, 95:21, 96:9, 118:6 lanes 83:2 largely 17:8 largo 3:11, 4:3, 4:5 last 13:9, 13:22, 14:5, 38:20, 63:16, 90:1, 92:15, 93:3,</p>	<p>98:7 late 108:4 later 18:19, 80:1, 85:22 latter 60:11 law 14:6, 14:10 layout 17:3, 17:7, 17:8, 17:14, 21:9, 119:21, 120:4 layouts 7:19, 103:20 leary 42:15, 42:17, 42:21, 43:2, 43:9, 47:15, 47:17, 47:20, 48:2, 48:6, 48:9, 48:14, 57:5, 57:10, 61:5, 61:16, 61:17 leary's 61:10, 61:13 least 86:4, 87:7, 108:1 leave 127:15 leaving 127:16, 127:17 left 2:3, 50:9, 87:18, 88:5, 116:22, 117:10 legal 14:17 legible 52:18 less 68:21, 69:9, 69:11, 69:15, 69:16, 69:17,</p>
---	---	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>73:18, 78:9 let's 71:11, 103:3 letter 22:3, 23:16, 27:19, 28:1, 28:2, 28:5, 32:3, 32:8, 32:11, 55:6, 55:10, 69:3, 127:18 level 26:18, 89:13, 106:9, 106:21 license 5:8, 5:10, 10:20, 11:9 licensed 4:22, 5:2, 5:4, 5:11, 7:1, 7:2, 43:18 licensure 5:22 light 90:10, 90:11, 97:4, 97:6, 97:15, 97:16, 117:3 likely 68:20 limit 52:7, 54:15, 118:14 limited 14:19, 29:8, 62:21, 96:5, 96:16 line 17:19, 26:1, 28:21, 50:1, 51:18 lines 18:8, 21:14 linked 80:12 listen 98:3 little 49:14, 50:4,</p>	<p>52:18, 56:7, 77:8, 79:4, 87:9, 87:11, 99:3, 107:4, 128:21, 130:16 live 81:16, 95:9, 98:5, 98:19, 105:21, 114:20, 116:1, 117:21 lived 85:22, 107:13 lives 76:21 living 112:19, 124:21 llc 1:8 loading 73:20 local 70:7, 71:16, 71:20, 72:7 located 104:7 location 46:16, 46:19, 48:20, 58:8, 79:7, 88:9 locations 24:9, 24:17, 50:2 long 5:1, 89:7, 97:10, 97:13 longer 83:16 look 32:17, 77:18, 107:4 looking 10:11, 28:17, 50:9, 68:10, 77:1, 98:11, 118:20, 119:17, 120:15 looks 57:17, 108:10,</p>	<p>110:3 lost 49:5, 49:9 lot 49:15, 52:15, 64:1, 68:1, 68:3, 96:7, 107:17, 107:22 lots 17:22, 33:11, 68:1 lower 57:22</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 112:6, 114:13, 121:9, 126:13 madam 2:14, 9:8, 14:19, 15:4, 31:2, 45:13, 46:14, 57:7, 64:18, 70:6, 75:19, 121:11, 126:17 madame 80:22 made 71:12, 125:16 mailed 18:13, 18:22 main 59:22, 60:3, 67:17, 74:9 maintaining 10:20 make 47:2, 47:5, 71:10, 78:19, 78:20, 80:6, 84:21, 87:18, 89:15, 95:9, 96:19, 102:15, 112:4, 113:14, 116:21, 117:10, 120:21, 120:22, 121:3</p>	<p>making 86:17, 87:3, 124:18, 125:14 man 65:3, 65:8 manage 4:12, 44:2 managed 58:12 management 4:19, 4:20, 7:21, 19:7, 29:9, 58:7 manager 3:20, 4:1, 4:12, 7:11, 7:12, 8:6, 12:13, 19:6, 19:11, 107:16 managing 4:10 manual 16:4, 16:7, 21:1, 21:6, 22:14, 45:8, 53:21 many 32:17, 77:22, 95:4, 99:19, 118:3, 122:19, 125:1 map 59:4, 78:3, 90:7 march 16:19, 18:18 mark 111:20 marked 112:7 marking 127:20 marlboro 72:14, 94:22, 100:14, 101:4, 105:22, 115:14, 119:4, 119:6, 119:9, 122:6,</p>
--	--	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

124:1 maryland 3:11, 4:4, 4:6, 4:17, 5:1, 5:5, 5:9, 5:10, 5:12, 5:20, 6:12, 6:15, 6:18, 6:19, 6:21, 7:1, 7:5, 10:21, 11:2, 43:11, 62:17, 94:22, 105:22, 115:14, 122:6 maryland-national 23:18 master 64:1, 64:2, 72:3, 72:4, 73:8 master's 5:17, 10:12 matter 27:21 maybe 59:3, 90:4, 97:15, 129:5 mc 90:3 mccall 2:4, 60:18, 60:22, 79:9, 79:19, 92:16, 94:3, 122:20, 123:20, 125:18 mccall's 126:9, 127:18 mean 57:20, 61:20, 87:9, 90:22, 97:22, 108:5, 113:7, 119:15, 126:9, 127:22 measure 78:11 medical 3:10 meet 89:13 meeting 93:6, 93:8,	95:16 meetings 17:9, 19:14 meets 127:5 member 116:2 memo 30:1, 30:7, 56:18, 57:2 mentioned 20:8, 34:9 met 21:14, 104:4, 130:10, 130:13 metro 4:6, 4:16 mid-'s 63:20 might 25:13, 25:20, 46:18, 48:10, 59:12, 92:9, 92:20, 98:11, 99:1, 108:8, 109:9, 111:21 mind 105:1 mine 31:20, 110:14, 110:16 minimal 55:20, 56:5 minimis 73:17, 76:22 minimization 21:8 minimize 21:18, 54:15 minor 52:13, 69:20 minute 103:3, 103:14 misses 118:19 mistaken 102:20 mitigated 102:1	mitigation 20:20, 21:8, 54:10, 117:15 mixed 7:13 modeling 7:21 moment 11:11, 48:15 montgomery 7:7, 63:15 month 18:19, 111:4 mooring 116:8 moran 99:9 more 18:5, 52:7, 52:18, 68:17, 68:19, 69:15, 71:1, 73:20, 80:20, 81:21, 82:12, 84:15, 84:16, 85:12, 86:4, 86:11, 86:15, 91:15, 91:17, 96:17, 96:18, 101:2, 102:6, 107:5, 107:10, 107:14, 120:11, 120:13, 124:5, 124:19, 126:15, 128:21, 130:2 morgan 101:9 morning 3:6, 9:16, 9:19, 43:2, 43:3, 43:8, 69:5, 69:17, 95:11, 118:8 most 81:20, 106:2 motorists 75:16, 81:8 move 9:9, 49:10,	50:15, 59:17, 59:19, 64:19, 79:5, 98:11, 111:18 moved 102:22, 116:7 movements 88:3 much 18:5, 63:18, 80:18, 89:6, 104:22, 121:7, 124:13, 129:15 multidisciplinary 8:3 multiple 84:7, 84:9, 84:15, 88:5, 101:1 municipal 8:17 must 25:15 mute 61:19 <hr/> <p style="text-align: center;">N</p> <hr/> name 3:8, 43:7, 46:11, 60:9, 62:13, 62:15, 72:7, 96:1, 105:18, 108:3, 114:19 narrow 117:20 natural 17:5, 17:12, 21:3, 26:5, 28:11, 28:16, 32:1, 36:7, 55:14, 120:14, 121:1, 122:10, 124:16 nature 99:16 near 91:3, 118:19
---	--	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>nearby 57:16 nearly 118:4 necessarily 101:19, 120:18 necessary 15:17, 44:22 need 25:18, 56:5, 70:13, 96:22, 114:21, 117:14 needed 53:2, 117:16 needs 97:14, 97:15 neighbor 8:10, 79:19, 94:1 neighborhood 30:13, 30:19, 33:7, 33:10, 33:16, 33:17, 33:20, 34:2, 36:4, 36:18, 37:1, 37:3, 37:18, 38:16, 75:5, 81:3, 95:5, 116:5, 122:14, 122:18, 124:6, 129:3, 129:4, 129:5 neighborhoods 124:18 neighboring 23:11, 24:19, 37:8, 37:21, 38:5 neighbors 102:18, 108:7, 125:6 neither 131:8 nelson 18:11, 62:2, 62:4, 62:8, 62:12, 62:15, 64:19, 65:14,</p>	<p>67:12, 70:16, 71:16, 75:19, 76:2, 76:16, 77:9, 78:2, 78:5, 78:9, 78:16, 80:16, 80:21, 82:19, 82:20, 83:3, 83:6, 83:10, 86:19, 87:1, 90:6, 90:13, 90:22, 91:8, 91:16, 99:22, 100:3, 100:5, 100:19, 102:9, 102:11, 103:4, 103:5, 103:8, 103:11 net 69:20, 75:11 network 70:8, 71:17, 71:20, 72:18, 73:15 networks 38:7 never 11:11, 108:2, 119:18 new 96:12, 96:19, 97:11, 114:4, 125:13 next 42:15, 62:1, 72:1, 77:11, 78:17, 88:15, 89:21, 95:13, 124:1 nice 35:4 nightmare 81:19, 116:18, 122:16 non-rural 83:18 nonconforming 23:10</p>	<p>none 88:8 nontidal 50:19, 51:3, 54:16, 56:4 north 18:5, 34:14, 34:19, 49:3, 58:16, 62:16, 72:12, 74:1, 87:10, 87:12 note 25:4, 52:20, 53:3, 58:5 noted 26:5, 75:6, 128:15 nothing 3:1, 42:20, 62:7, 93:17, 98:19, 105:14, 115:6, 121:21 notice 31:22, 58:6 notices 18:13 notification 108:2 notified 102:3 number 7:13, 68:13, 68:19, 74:2, 87:7, 95:17, 100:12 numbers 73:17 numerous 49:20, 116:14, 117:11</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o'clock 118:8 oath 2:18 objection 2:9, 14:13,</p>	<p>65:9, 111:14, 111:16, 123:6 obtained 17:4 obviously 45:3, 49:7, 49:11, 54:14 occur 38:4, 88:4, 88:9, 100:13 occurred 31:5 occurring 57:14 off-site 26:8, 50:22, 51:4, 54:19, 56:8 offense 98:2 offer 61:8, 110:8 offered 14:16 offering 8:13, 101:20 office 4:3, 4:6, 4:8, 4:10, 7:10, 17:1, 70:18, 108:21, 118:2 offices 13:16 offsite 56:9 oh 37:14, 47:20, 47:21, 49:5, 59:20, 80:8, 93:4, 98:7, 105:7, 114:20, 119:7 okay 2:10, 3:3, 3:6, 10:10, 32:20, 40:21, 40:22, 41:10, 42:8, 42:12, 45:21,</p>
---	--	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>46:12, 47:10, 49:9, 58:20, 59:20, 60:3, 60:12, 60:13, 61:1, 61:12, 61:15, 62:3, 62:9, 65:10, 66:17, 70:10, 70:16, 70:21, 71:3, 71:11, 76:19, 78:4, 78:8, 78:12, 79:8, 80:10, 80:14, 82:6, 82:14, 83:5, 83:9, 84:3, 84:18, 89:22, 90:8, 91:7, 91:14, 91:18, 92:2, 92:11, 93:1, 93:20, 94:12, 94:13, 94:19, 94:20, 95:8, 96:4, 97:21, 98:21, 102:14, 103:2, 103:10, 103:13, 103:17, 104:18, 104:19, 105:10, 105:17, 110:10, 111:17, 112:2, 112:9, 113:1, 114:14, 114:18, 115:10, 119:17, 122:3, 122:7, 123:7, 123:11, 123:19, 125:21, 126:12, 126:13, 129:14, 130:14</p> <p>older 97:21</p> <p>on-site 20:18, 24:3, 46:16</p> <p>once 129:18</p> <p>one 9:14, 12:8,</p>	<p>31:20, 34:3, 34:4, 41:2, 52:14, 52:19, 58:22, 63:3, 63:15, 67:10, 68:5, 69:9, 69:13, 69:15, 70:11, 71:1, 76:2, 76:8, 77:17, 80:20, 82:7, 82:18, 83:2, 83:3, 84:7, 84:11, 84:14, 84:16, 87:2, 87:4, 87:13, 87:19, 88:2, 88:4, 90:1, 90:11, 93:13, 95:2, 95:21, 96:8, 96:22, 100:4, 100:6, 100:21, 102:6, 103:22, 104:1, 104:6, 106:7, 107:18, 109:20, 110:6, 115:16, 117:16, 120:19, 121:4, 122:11, 122:15, 130:2</p> <p>one-family 65:21</p> <p>one-lane 82:1</p> <p>one-way 100:11</p> <p>only 39:13, 46:11, 55:17, 55:19, 63:10, 67:10, 83:12, 88:2, 100:21, 106:14, 106:15, 106:16, 115:19, 118:17, 121:4, 122:15</p> <p>open 4:3, 4:5, 36:11, 127:15,</p>	<p>127:17</p> <p>open-ended 64:4</p> <p>opened 4:8, 10:5</p> <p>opening 4:4, 7:10</p> <p>operations 3:20, 4:1, 4:11</p> <p>opinion 25:11, 51:15, 53:10, 58:18, 78:14</p> <p>opportunity 12:6, 97:19, 126:18, 129:21</p> <p>opposed 40:13, 92:20, 101:1</p> <p>opposite 34:15, 89:10, 90:22</p> <p>opposition 101:19</p> <p>option 84:7, 84:11, 84:15, 84:18</p> <p>order 36:18, 51:5, 124:8</p> <p>ordinance 19:20, 20:1, 20:3, 20:6, 20:17, 22:13, 22:15, 22:19, 44:7, 53:17, 74:22</p> <p>ordinances 74:15</p> <p>ordinarily 74:12, 75:8</p> <p>original 25:6, 103:16, 103:20</p> <p>originally 18:2, 25:5</p> <p>other 10:15, 10:16,</p>	<p>17:10, 20:5, 23:5, 24:13, 33:20, 34:1, 36:17, 37:1, 37:2, 37:17, 38:16, 39:6, 39:9, 39:11, 39:13, 40:10, 51:14, 78:13, 80:16, 99:15, 102:18, 108:6, 110:18, 112:17, 114:10, 118:13, 119:16, 120:16, 121:13, 129:17</p> <p>others 23:2, 24:13, 114:6</p> <p>otherwise 131:10</p> <p>out 16:20, 18:2, 31:5, 48:3, 48:5, 49:17, 56:6, 59:21, 63:18, 70:14, 73:9, 75:8, 77:4, 84:11, 87:17, 87:19, 88:8, 95:1, 96:21, 97:1, 97:19, 98:9, 98:13, 102:18, 102:20, 106:6, 112:22, 117:21, 118:1, 118:20, 120:1, 120:5, 120:19, 121:4, 122:11, 122:15, 122:16</p> <p>outcome 131:11</p> <p>outfall 29:9</p> <p>outlined 22:12</p> <p>outside 119:14, 119:16</p>
---	---	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>over 7:5, 13:22, 19:6, 50:17, 51:14, 55:18, 75:8, 95:2, 107:13, 116:6, 118:10, 120:6 overcome 32:17 overcrowded 84:18 overflow 96:7, 96:15 overpriced 124:9 oversaw 18:16 overseeing 7:17 own 99:4 owned 34:11, 34:18 owner's 96:12 owners 57:16 owning 20:4</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>page 14:5, 35:18, 38:20, 49:4, 49:13 pages 1:21, 9:22 pan 50:3, 50:16, 51:14, 55:18 paragraph 38:20 parenthetical 35:22 park 14:7, 17:11, 23:19, 35:4, 35:5, 36:10,</p>	<p>50:20, 50:22, 55:22, 66:10, 125:2, 125:6 parked 96:15 parking 96:5 parkside 41:13, 82:3, 90:3, 90:17, 90:19, 97:12, 101:7, 107:12, 113:19, 113:20, 117:2, 128:14 part 2:10, 6:20, 15:22, 20:3, 52:22, 82:11, 82:12, 86:19, 90:19, 118:12 participate 5:20, 16:8, 101:20 participated 16:11, 101:18 participating 19:13 participation 126:22 particular 33:16 parties 131:9 passing 118:6 past 45:3, 77:22, 86:7, 116:6, 118:13 patient 79:21 patterns 124:19 pay 117:22 peak 73:18 peculiar 22:20, 24:8</p>	<p>peculiarities 86:21 pedestrians 75:16, 81:8 penalties 2:21, 42:18, 62:5, 93:15, 105:12, 115:4, 121:19 pennsylvania 76:7, 91:5, 101:4, 107:10 people 73:4, 87:16, 89:8, 107:1, 107:19, 107:22, 116:18, 118:22, 119:2, 119:7, 121:1, 122:16 people's 14:2, 31:4, 58:21 perfect 126:5 performed 36:6, 104:9 performing 7:17 perimeter 18:1 period 98:20, 117:22 perjury 2:21, 42:18, 62:5, 93:15, 105:13, 115:4, 121:19 permit 8:1 permits 8:18, 25:15, 53:2 permitted 23:10, 24:12, 39:7, 84:1 permitting 44:9 person 80:7, 80:8,</p>	<p>129:20 personal 126:2 persons 92:9, 99:16, 102:4 perspective 67:9, 74:8, 88:11, 88:19, 122:12 pertaining 65:20 phone 10:6, 10:8 phonetic 16:15, 81:14 photograph 110:12 photographs 108:21, 109:5, 110:8, 110:18, 110:19, 110:22, 111:7, 111:15, 113:10 photos 109:11, 127:19, 128:22 picture 112:18, 112:22, 128:13, 128:15 pictures 109:16, 109:20, 112:1 piece 107:18 place 78:15, 88:4, 115:20, 116:15, 119:11 placed 108:22 places 120:15 placing 103:12 plagued 125:12 plan 13:3, 14:4,</p>
--	---	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>14:9, 15:11, 15:14, 15:18, 15:21, 16:13, 16:22, 18:17, 18:20, 22:10, 25:3, 25:14, 25:15, 25:18, 26:17, 27:3, 27:7, 27:14, 27:15, 27:16, 28:9, 28:13, 28:18, 31:6, 45:1, 45:4, 45:10, 49:2, 49:15, 50:9, 51:10, 52:6, 52:16, 52:18, 53:6, 53:11, 53:12, 55:11, 66:19, 72:3, 72:5, 73:8, 77:2, 77:12, 87:22, 90:20, 99:20, 101:21, 104:10, 107:3 planned 73:10, 96:6 planner 61:7 planning 7:18, 14:7, 14:8, 14:17, 16:8, 16:12, 17:11, 21:15, 23:19, 23:20, 26:18, 35:4, 40:2, 43:20, 44:6, 52:10, 64:1, 64:2, 65:12, 66:14, 92:4, 126:18 planning's 66:10 plans 8:14, 8:15, 8:20, 12:7, 15:15, 19:11, 61:10</p>	<p>plc 3:15 please 3:7, 5:13, 22:5, 33:14, 43:6, 45:14, 48:19, 62:12, 66:21, 70:7, 71:19, 91:13, 102:7, 122:4 plus 33:3 pma 50:13, 54:20 pocket 17:20, 28:22, 38:1 point 31:5, 67:5, 67:11, 76:8, 78:14, 87:2, 90:9, 91:4, 100:21, 104:7 points 66:22, 101:2, 103:21 poorly-construct- ed 124:9 populated 124:5 position 3:17, 43:15, 44:1, 62:22, 63:7 possible 21:4, 21:5, 25:20, 28:12, 28:17, 29:4, 46:19, 55:15 possibly 110:8 preclude 57:15 preliminary 25:3, 66:14, 66:19, 77:1, 77:12, 99:20,</p>	<p>101:21 preparation 15:17, 15:20, 44:22, 45:4 prepare 15:11, 15:13, 21:21, 45:9, 63:12, 66:2 prepared 8:20, 12:20, 12:21, 13:11, 13:15, 13:19, 19:2, 22:3, 22:7, 45:2, 45:5, 61:11, 68:18, 131:3 preparing 8:13, 13:10, 27:5, 27:18, 27:22 presence 4:4 presented 127:2 preservation 17:18, 20:19, 28:9, 28:14, 28:20, 54:9, 55:12, 124:16 preserve 18:7 preserved 21:2, 25:6, 28:19, 110:1 preserving 26:21 president 3:19, 3:22, 4:11, 43:17, 63:2 pretty 35:1, 63:9, 63:18, 89:6 previously 9:5, 54:12, 64:6 primarily 40:2</p>	<p>primary 77:14 prince 4:16, 6:15, 7:7, 7:15, 15:22, 16:3, 16:5, 19:19, 20:16, 22:12, 41:8, 53:16, 53:20, 63:17, 64:8, 124:8 prior 11:21, 12:1, 51:8, 53:1, 74:14, 125:12 prioritize 17:18 privilege 23:4 probably 89:18, 99:2, 106:19, 128:21 problem 42:4, 99:18, 113:13, 113:15, 123:19 problematic 25:13 problems 58:16, 61:13, 109:8 proceeding 131:5 proceedings 130:20, 131:6 process 21:7, 53:1 processing 8:1 professional 5:2, 5:6, 5:22, 6:4, 6:8, 6:10, 6:14, 7:3, 8:11, 9:3, 19:3, 19:5, 43:22, 44:13, 64:16 proffered 11:13, 14:21</p>
--	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>proffering 11:16, 61:5 progress 2:1 project 4:18, 7:11, 8:5, 8:6, 12:13, 16:21, 18:12, 19:1, 19:6, 19:7, 19:9, 19:10, 20:9, 41:4, 41:6, 41:12, 68:11, 100:20, 107:15 projects 4:15, 4:21, 7:5, 7:15, 44:3, 63:19 promoted 124:20 properties 24:14, 24:19, 30:12, 33:20, 34:1, 34:9, 35:13, 36:3, 36:9, 36:17, 37:1, 37:2, 37:9, 37:18, 37:22, 38:16, 75:4, 81:3, 114:6, 128:8 property 8:5, 8:7, 8:8, 8:10, 8:19, 8:22, 15:7, 16:17, 17:19, 17:21, 18:8, 21:13, 22:9, 22:21, 23:11, 24:8, 24:12, 26:1, 28:21, 33:3, 33:22, 34:10, 34:11, 34:18, 34:21, 35:1, 35:3, 35:7, 35:11, 35:13, 35:20, 36:1, 36:11,</p>	<p>36:22, 37:5, 38:2, 38:8, 38:11, 38:14, 38:22, 39:3, 39:9, 41:12, 44:18, 49:22, 50:11, 50:20, 51:13, 51:18, 57:16, 59:3, 59:6, 59:20, 60:1, 60:8, 60:9, 60:19, 65:15, 65:20, 71:21, 74:13, 87:4, 87:9, 88:1, 99:4, 99:5, 99:8, 99:10, 102:16, 103:21, 104:1, 104:2, 106:20, 107:18, 110:12, 110:13, 110:17, 110:19, 111:9, 115:17, 115:20, 117:1, 119:19, 120:7, 120:9, 120:20, 124:4, 128:12, 128:13, 129:6, 130:8 proposed 24:9, 25:5, 26:3, 27:13, 27:16, 28:8, 28:13, 29:5, 30:5, 39:10, 53:11, 55:11, 56:22, 58:2, 58:6, 66:22, 67:10, 73:13, 81:1, 81:6, 101:12, 113:11, 115:19, 115:21, 120:7, 120:20 proposes 87:22 proposing 26:9, 100:21 protections 57:14</p>	<p>prove 88:17, 89:20 proves 26:14 provided 127:3, 127:12 public 36:10, 66:15, 78:18 pull 2:6, 45:17, 46:3, 47:4, 47:11, 70:7, 70:13, 109:10, 112:10 pulling 88:6 purpose 72:5, 72:8, 130:11 pushing 17:22 put 10:7, 94:22, 97:16, 107:3, 109:4, 128:15 putting 84:16, 86:4, 86:11, 130:15</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualified 9:1, 9:5, 9:9, 11:12, 11:14, 11:20, 12:1, 64:7 qualify 14:15, 98:11 quality 4:19, 7:12, 19:10, 23:13, 24:21 question 25:21, 31:20, 33:13, 33:21, 39:14, 39:15, 41:3, 57:11, 74:22, 76:2,</p>	<p>78:13, 80:20, 81:15, 84:21, 85:9, 86:15, 88:14, 89:18, 89:19, 95:1, 95:15, 102:7, 102:9, 102:15, 104:13 questions 9:13, 10:1, 31:1, 32:22, 40:10, 40:14, 42:1, 57:6, 59:2, 60:21, 61:3, 61:14, 65:1, 75:19, 75:22, 79:9, 79:17, 80:3, 80:16, 87:2, 91:15, 91:17, 98:22, 99:1, 108:16, 108:19, 110:7, 114:10, 121:9, 121:10, 126:7, 126:10, 126:11 quick 31:20, 108:19 quickly 121:1</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raccoon 119:16 raccoons 119:18 raised 94:2, 108:11 ramona 94:10 range 34:3, 44:2, 64:4 rather 17:21 rawlings 46:2, 46:4, 46:7, 46:12,</p>
---	--	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>46:21, 47:5, 47:13, 61:21, 70:12, 70:15, 70:17, 70:22, 71:7, 71:9, 71:14, 109:14, 112:4, 112:6 reach 40:6 read 14:4, 35:15, 49:15, 79:22, 122:22, 123:1, 123:6 readability 52:17 real 8:19, 90:9, 124:22 really 35:4, 51:16, 51:17, 57:11, 57:13, 60:8, 69:19, 73:19, 82:18, 84:5, 84:10, 88:11, 101:15, 105:1, 106:11, 107:1 reason 68:8, 79:6 reasonable 38:21 recall 13:8 received 17:9, 108:20 recent 73:8 reciprocity 5:9 recommend 26:10 recommendation 25:12, 104:2 record 2:10, 3:9, 4:21, 6:2, 7:12, 8:7, 12:10,</p>	<p>12:12, 12:14, 20:10, 21:20, 31:11, 43:7, 44:11, 62:14, 64:12, 68:9, 80:7, 80:9, 94:15, 94:18, 102:4, 108:22, 114:17, 123:10, 123:17, 124:3, 125:20, 126:3, 127:4, 127:15, 128:16, 128:20, 129:10, 129:13, 129:17, 129:21, 130:3, 131:6 recorded 1:9 recording 2:1, 131:4 red 71:22 redirect 42:9, 42:10, 80:15 reduced 104:6 reference 53:3 referenced 32:7 referring 60:15, 83:1, 95:21, 97:6 refined 17:3 reflect 6:3, 44:12, 64:15 reflects 6:7, 75:7 reforestation 29:4, 124:17 regarding 16:16, 18:11 regulated 20:11, 21:1, 28:10, 28:15,</p>	<p>46:16, 48:21, 54:2, 55:13 regulations 5:20 related 15:14, 120:17, 131:8 relates 65:21 relating 23:9 relative 16:15 relevant 8:4, 10:6, 14:6, 71:19 relied 8:16, 40:5 remain 19:9 remember 2:19, 78:6 remembering 109:7 removal 12:18, 20:17, 22:1, 24:2, 24:4, 26:11, 26:14, 35:16, 54:6, 55:3 removed 24:10, 25:9, 26:4, 26:10 renew 11:8 rephrase 33:14 report 29:21, 56:16, 78:6 report's 30:4, 56:21 reports 12:13, 19:11 represent 44:16 representation 111:8</p>	<p>represents 25:14 request 18:15, 20:2, 23:5, 23:8, 24:2, 24:16, 24:17, 35:15, 35:19, 40:14, 54:5, 55:5, 55:9, 92:20, 123:16, 127:8 requested 19:16, 20:14, 24:5, 26:11, 53:4 requesting 54:6, 83:22, 130:8 requests 18:21, 32:15 require 22:20 required 5:19, 11:2, 19:17, 19:22, 29:8, 33:17, 53:14, 66:7, 66:11, 66:12, 74:15, 74:21 requirement 89:12 requirements 10:20, 10:22, 15:17, 15:20, 22:12, 44:22, 88:16, 89:14 requires 25:16, 31:22 requiring 27:1, 125:5, 125:7 resent 112:1 reshare 48:7, 48:11 residential 7:13, 39:5, 44:3, 63:21,</p>
---	---	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>67:3, 69:7, 72:8, 72:10 residents 30:19, 96:21, 97:21 resources 17:6, 17:13, 26:5, 32:2, 36:7, 52:5 respectfully 127:8 respond 42:2, 88:5, 121:6, 126:2 response 14:2, 89:1 responsibilities 7:16, 63:6 responsible 4:9, 4:18, 63:8, 63:11 restoration 20:20, 28:10, 28:15, 54:9, 55:13 restored 21:2 restrict 24:7 restricted 16:21 resubmitted 109:9 result 20:6, 23:7, 100:9, 113:10, 113:20 resume 6:2, 6:6, 6:11, 8:12, 9:21, 10:11, 44:11, 44:15, 64:12 retain 5:21, 51:11, 52:4, 52:6 retained 26:8, 28:19, 65:18</p>	<p>retaining 54:21 review 19:15, 20:4, 23:20, 24:1, 25:3, 26:20, 28:1, 29:22, 30:6, 55:9, 56:17, 57:1, 77:15, 123:18 reviewed 9:21, 13:17, 27:7, 27:10, 29:11, 29:15, 33:9, 37:2, 40:5, 55:1, 55:5, 55:6, 56:10 reviewing 19:11 revised 25:19 revisions 26:16, 52:14 rezoning 124:3, 125:13, 130:5, 130:7 right 13:18, 31:15, 41:15, 41:20, 41:22, 48:13, 48:16, 50:15, 55:19, 57:18, 67:21, 69:22, 71:22, 80:11, 81:11, 83:11, 86:5, 86:11, 86:15, 87:19, 88:6, 95:1, 95:5, 95:18, 103:3, 109:19, 110:5, 111:12, 114:2, 114:9, 120:8, 124:1 right-of-way 117:7 right-of-ways 38:8</p>	<p>rights 23:1 rise 101:3 ritchie 72:14, 100:14, 101:4, 107:8, 119:3, 119:5, 119:8 road 8:9, 18:7, 21:12, 29:3, 34:15, 34:20, 41:5, 49:4, 57:15, 58:3, 67:11, 72:3, 72:13, 72:14, 73:9, 74:2, 74:9, 81:16, 82:1, 82:2, 82:16, 82:21, 83:15, 83:16, 86:22, 87:8, 87:11, 87:13, 89:4, 89:5, 91:1, 93:10, 94:4, 95:10, 95:13, 95:20, 96:17, 98:18, 99:6, 99:7, 100:2, 100:7, 100:8, 100:11, 100:14, 100:15, 100:22, 101:4, 101:5, 101:8, 103:22, 105:21, 107:8, 115:14, 116:7, 116:16, 117:19, 117:20, 118:2, 118:18, 119:1, 119:3, 119:4, 119:6, 122:5, 123:22 roads 72:4, 72:19 roadway 7:19, 74:10, 100:3</p>	<p>roadways 72:11, 73:3 robinson 79:12, 79:14, 79:15, 79:18, 80:5, 80:8, 80:12, 81:13, 81:14, 82:7, 82:9, 82:14, 82:17, 83:1, 83:5, 83:9, 83:14, 84:3, 85:1, 85:6, 85:9, 90:17, 90:21, 91:10, 92:18, 94:2, 100:4, 121:15, 121:16, 121:18, 121:22, 126:8 rochelle 16:15 rohde 43:9, 43:13, 43:16 role 3:22, 4:11, 6:10, 8:11, 13:9 root 26:2 route 72:16, 73:5 royal 96:3 rr 39:4, 39:7, 68:1, 68:3, 130:9 rules 22:22, 116:19 run 17:13, 43:19, 117:5 running 114:6, 117:12 runs 120:1 rural 39:5, 83:8,</p>
--	---	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>83:15, 83:16, 83:18, 95:21, 98:19, 98:20, 116:9</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safe 73:9, 85:20, 86:8, 86:10, 86:12, 86:20, 96:20, 96:22, 124:19, 125:15</p> <p>safely 77:4</p> <p>safer 86:17, 88:12</p> <p>safety 30:18, 64:2, 74:8, 75:15, 81:7, 87:6</p> <p>said 68:16, 73:16, 77:11, 81:17, 81:22, 85:20, 85:21, 98:6, 101:15, 114:14, 117:17, 122:9, 124:11, 124:12, 129:3, 131:5</p> <p>same 31:5, 38:1, 39:8, 69:11, 94:2, 96:14</p> <p>sansbury 96:3, 96:15, 101:8</p> <p>sat 5:5</p> <p>savable 27:1</p> <p>save 25:21</p> <p>saved 25:8</p> <p>saw 102:21</p> <p>say 35:20, 36:17,</p>	<p>68:15, 69:19, 73:4, 85:4, 87:7, 95:7, 96:13, 108:6, 108:7, 108:12, 113:16, 122:8, 129:6, 130:2, 130:4</p> <p>saying 60:6, 60:20, 84:6, 85:10, 95:4</p> <p>says 32:11, 124:2</p> <p>scenario 101:14</p> <p>scenic 100:7, 100:8</p> <p>scheduling 8:1</p> <p>schematic 16:20</p> <p>school 63:19, 64:1, 95:11, 98:9, 118:7</p> <p>science 5:16, 10:14</p> <p>screen 46:5, 46:22, 47:16, 48:1, 48:19, 56:6, 59:17</p> <p>se 1:8</p> <p>seamlessly 48:15</p> <p>second 47:18, 58:22, 70:11, 78:3, 82:7, 93:13, 106:8, 108:16, 117:17</p> <p>section 20:15, 21:15, 31:21, 32:7, 45:6, 54:6, 117:21, 128:5</p>	<p>sector 90:19</p> <p>sediment 7:22</p> <p>see 41:16, 46:4, 46:7, 46:8, 46:11, 47:3, 47:16, 47:17, 47:22, 48:4, 48:19, 49:14, 49:19, 50:21, 51:17, 52:15, 60:18, 65:5, 65:8, 71:7, 71:11, 71:16, 73:19, 74:1, 90:6, 112:16, 112:20, 114:15, 118:5, 118:10, 119:14, 128:9</p> <p>seeing 89:9, 111:18</p> <p>seem 86:12</p> <p>seems 119:21</p> <p>seen 96:1, 107:12, 116:4, 118:3, 118:16, 118:19, 119:18, 120:5, 120:10</p> <p>seller 99:8</p> <p>send 32:15</p> <p>sending 119:2</p> <p>senior 63:3, 68:6, 69:4, 73:13, 124:21</p> <p>seniors 125:1</p> <p>sense 35:14, 120:21, 120:22, 121:3</p>	<p>sent 32:1, 123:1, 126:3</p> <p>september 5:10, 131:16</p> <p>serve 4:6</p> <p>service 10:4, 89:13</p> <p>session 118:7</p> <p>seven 118:1</p> <p>several 34:17, 45:3, 51:7, 117:6</p> <p>sewer 55:20, 56:1, 56:3, 56:8</p> <p>shaded 49:17</p> <p>shall 2:22, 42:19, 62:6, 93:16, 105:13, 115:5, 121:20</p> <p>shape 38:15</p> <p>share 46:22, 70:20, 109:15</p> <p>sharing 46:13</p> <p>she'd 125:19</p> <p>shortcut 107:9</p> <p>shortly 19:4, 129:19</p> <p>should 14:19, 57:15, 101:20, 107:4, 107:15, 108:1, 111:19, 124:15, 124:17, 125:14, 125:16</p> <p>shoulder 96:8, 96:10</p>
---	--	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>shouldn't 95:19 show 45:14, 88:21, 113:2, 130:12 showing 113:3, 113:4 shows 68:10 shut 119:4 side 34:15, 34:19, 50:10, 51:14, 60:8, 67:6, 72:2, 103:22, 104:1, 106:16, 106:17, 106:20, 107:1, 109:21, 117:12 sides 99:6 sidewalks 125:10 siege 122:14 sight 104:8 sign 67:6, 90:12, 90:21, 91:10, 97:8 signal 117:3 signature-plkal 131:13 signed 12:19, 13:8, 125:18 significant 38:22, 118:21, 119:12 significantly 74:7, 88:12 signs 76:10 similar 12:8, 23:2,</p>	<p>24:14, 35:13 similarly 24:15 since 4:4, 4:10, 5:12, 7:3, 7:10, 52:10, 63:18, 83:16, 98:4, 107:13, 109:20, 114:1, 128:5 single 67:5 single-family 34:17, 35:2, 69:3 sir 10:18, 11:7, 13:4, 91:21 sit 97:9 site 7:18, 7:20, 12:7, 15:11, 15:14, 15:18, 15:21, 16:13, 18:1, 18:4, 18:17, 20:5, 21:9, 22:10, 25:14, 25:18, 27:2, 27:13, 27:16, 28:8, 28:11, 28:13, 28:16, 29:1, 29:5, 36:8, 39:1, 48:21, 49:3, 49:21, 50:8, 50:11, 50:14, 50:16, 50:18, 51:2, 51:16, 51:21, 51:22, 53:6, 53:11, 54:7, 54:13, 54:21, 55:11, 55:14, 58:8, 58:13, 65:19, 69:9, 72:1, 76:3, 76:8, 77:4,</p>	<p>78:15, 78:19, 79:3, 80:22, 81:5, 89:12, 104:8, 104:10 sitting 97:13, 118:19, 119:17, 130:1 situation 113:9 six 118:9 skeptical 25:7 sketch 16:20 skills 131:7 slam 117:11 slopes 24:6, 35:14, 35:22, 36:4, 36:15, 37:4, 37:19, 38:3, 38:9 slow 97:18 small 50:10, 50:18, 51:3, 54:16, 63:9 smith 35:10 sold 99:9, 99:10 solely 24:16 some 2:4, 3:21, 4:20, 6:13, 9:22, 13:9, 43:21, 49:16, 49:17, 52:13, 56:2, 59:6, 63:5, 67:14, 91:4, 92:9, 93:8, 93:9, 99:15, 100:2,</p>	<p>100:9, 107:14, 117:14, 127:22, 128:14 somebody's 88:6 somehow 112:5 someone 70:18, 84:4, 84:8, 85:22, 114:14, 117:1, 118:18, 121:5, 122:13 someone's 117:12 something 13:3, 88:21, 108:7 somewhere 121:2 son 95:11 soon 118:12 sorry 40:20, 42:7, 56:5, 92:10, 92:13, 94:6, 114:20, 120:18, 123:21 sort 113:7 sought 11:14, 11:19, 12:1 sounds 87:1 south 36:10, 38:11, 49:5, 49:7, 49:10, 49:13, 50:4, 50:8, 50:20, 51:21, 56:9, 57:18, 57:22, 58:3, 58:8, 72:2, 72:15, 73:5, 89:8, 99:7</p>
---	--	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>southeast 17:21, 29:1, 35:3, 54:17 southeastern 50:17 southern 17:19, 18:8, 21:13, 28:20, 49:22 southwest 35:6, 36:14, 51:13 space 96:16 spaces 96:12 speak 6:13, 22:5, 93:2, 103:16 special 13:6, 13:12, 13:22, 15:11, 15:18, 15:20, 16:13, 18:11, 18:14, 18:19, 20:4, 20:12, 22:10, 22:20, 23:4, 24:8, 25:14, 25:17, 26:12, 27:2, 29:13, 33:8, 33:18, 35:20, 51:9, 52:11, 53:7, 54:3, 56:12, 66:8, 67:18, 74:16, 83:22, 127:6, 127:9 specific 22:8 specifically 6:15, 22:17, 75:2, 128:22 specifications 79:2 specimen 12:18, 13:1, 17:18, 18:14,</p>	<p>18:20, 20:18, 21:13, 21:17, 22:1, 24:3, 24:5, 24:22, 25:5, 25:21, 26:7, 28:18, 29:6, 29:7, 35:17, 46:17, 48:22, 49:18, 49:20, 51:2, 51:12, 51:18, 52:7, 52:17, 53:3, 54:7, 55:3 speed 118:14 speeding 118:5, 125:12 spirit 8:8, 34:12 spread 49:20, 102:20 spring 5:7, 17:2 staff 14:8, 17:11, 23:20, 24:3, 25:1, 25:7, 25:10, 26:17, 29:21, 30:4, 52:14, 56:16, 56:21, 66:10, 68:14, 77:14, 78:6, 92:4, 126:19 staff's 29:22, 30:6, 32:3, 32:8, 32:11, 56:17, 57:1 stage 26:19, 66:12, 77:13, 78:17 stand 10:2 standards 74:21, 89:13 stands 10:3</p>	<p>start 2:11, 49:14, 118:9 started 41:12, 68:11, 68:12 starts 21:7 state 3:7, 5:1, 5:5, 6:12, 6:14, 7:2, 8:16, 10:21, 21:3, 28:11, 28:16, 32:1, 32:12, 32:16, 43:6, 55:14, 62:12, 63:13, 64:3, 94:16, 94:17, 105:18, 124:3 statement 12:16, 12:22, 13:6, 13:12, 13:15, 18:21, 21:21, 22:6, 22:16, 23:21, 27:5, 29:12, 29:15, 29:18, 33:8, 39:22, 42:3, 55:1, 56:11, 66:3, 67:13, 67:16, 68:18, 70:2, 79:22, 122:22, 123:1, 125:19 station 101:10 stay 113:22 steep 24:6, 35:14, 35:22, 36:4, 36:15, 37:4, 37:19, 38:3, 38:9 step 69:14, 77:11, 79:4, 88:15,</p>	<p>89:21, 115:1, 119:17 still 2:17, 10:6, 26:15, 48:5, 59:1, 65:5, 70:13, 77:4, 79:10, 85:10, 85:12, 90:11, 103:4, 109:15, 116:8, 122:21 stop 67:6, 76:10, 90:12, 90:21, 91:10, 97:7, 97:8, 103:3 storm 38:7 stormwater 7:21, 29:9, 58:6, 58:9 story 56:7 straight 59:22 strategies 20:20, 54:10 stream 50:11, 50:13, 51:5, 51:20, 54:20 street 34:16, 62:20, 63:1, 67:6, 82:1, 82:18, 84:4, 84:17, 91:5, 97:5, 106:9, 106:17, 106:18, 106:21, 107:2, 109:22, 117:5, 120:6 streets 72:8, 72:10 string 74:5 stuck 122:18 studies 62:21, 63:1,</p>
---	---	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

63:13, 64:2, 66:11 study 68:2 studying 107:15 subconsultants 4:14, 19:15 subdivision 25:4, 66:19, 68:4, 69:8, 69:10, 69:19, 99:21, 101:22 subdivisions 72:21 subject 15:7, 22:9, 27:9, 44:19, 45:11, 54:3, 65:15, 65:20, 66:3, 71:20 submit 123:9, 127:1, 127:7, 127:19 submittal 25:6 submitted 18:18, 32:9, 66:3, 123:17 substantial 26:2, 127:11 subtitle 15:22, 22:1, 23:22, 27:6, 55:3 subway 101:9 suggest 101:17, 103:8 suggested 25:1 suggesting 113:8, 113:12, 114:3 suitable 125:17 suite 3:11	summarize 71:19 summer 17:3 superior 74:12 supervision 19:3 support 12:17, 21:22, 22:6, 23:21, 23:22, 24:2, 27:6, 55:2, 73:10, 88:18, 124:5 supported 14:8, 24:4 supporting 19:12 supposed 73:1 sure 6:17, 33:12, 33:15, 40:20, 43:8, 44:2, 47:13, 68:10, 71:22, 78:19, 78:21, 80:6, 85:16, 86:13, 89:15, 90:13, 92:14, 94:19, 95:9, 96:1, 102:11, 126:1, 128:4 surprised 65:5, 65:7 surrounding 4:16, 30:12, 30:19, 34:9, 75:4, 81:3, 81:9, 116:16, 127:20 surveying 17:4 surveyors 4:14 susie 109:10	swear 2:20, 42:17, 62:4, 93:14, 105:5, 105:12, 114:21, 115:3, 121:18 system 51:5, 73:10, 88:17 <hr/> T <hr/> take 61:19, 61:20, 61:21, 69:13, 115:20, 126:18, 128:13 taken 11:5, 41:11, 41:19, 110:22, 116:10 takes 120:13 taking 98:2, 116:15 talked 102:13 talking 70:17, 90:14, 91:12, 97:20 tcp 20:4 tcp2 25:6, 27:17, 45:14, 46:15, 51:7, 52:10, 60:6, 127:10 tcp2- 22:11, 27:8, 27:11, 45:10 tcs 10:5, 10:7 team 4:12, 17:11, 18:10, 19:1, 19:6 tech 46:18 technical 16:4, 16:6,	20:22, 21:6, 22:14, 24:3, 29:21, 30:3, 30:4, 45:8, 53:21, 56:16, 56:21 tell 37:16, 91:13, 94:18, 105:5, 105:19, 115:11 temporary 56:2 ten 34:4, 67:22, 74:5, 99:12, 118:1 terms 33:10, 35:19, 101:14, 101:19, 120:17, 120:21, 120:22 testified 11:10, 92:17, 99:15, 116:17, 118:18, 119:13, 121:14 testify 2:7, 13:3, 14:9, 91:13, 92:9, 92:19, 104:21, 105:4, 114:15, 114:17, 121:13, 122:7 testifying 61:10 testimony 2:21, 14:18, 23:15, 28:4, 29:17, 39:22, 40:4, 42:1, 42:19, 61:13, 62:6, 82:12, 93:15, 105:13, 113:8, 115:5, 121:20, 126:9, 126:16, 127:2 tests 66:15
--	---	--	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>texted 79:20</p> <p>th 29:22, 30:7, 32:4, 56:17, 57:2, 111:2</p> <p>thank 2:2, 2:13, 9:19, 15:3, 30:21, 40:11, 42:5, 42:7, 42:8, 42:13, 45:18, 49:1, 50:5, 50:17, 51:6, 51:14, 55:19, 57:4, 57:8, 59:16, 60:16, 61:14, 61:16, 61:17, 67:12, 71:13, 75:22, 80:17, 81:11, 90:1, 91:14, 91:20, 92:4, 92:8, 93:20, 97:2, 104:19, 108:12, 109:13, 109:15, 114:9, 114:11, 114:12, 121:7, 121:8, 122:8, 126:6, 126:13, 126:18, 129:15, 130:14, 130:17</p> <p>thanks 40:12, 61:22, 109:6</p> <p>thereafter 19:4, 129:20</p> <p>therefore 114:5</p> <p>thing 67:8, 67:17, 106:8, 107:16</p> <p>things 87:5, 107:17, 108:5, 122:11, 128:14</p> <p>think 14:18, 31:8,</p>	<p>31:12, 34:5, 41:18, 42:2, 46:2, 47:8, 48:9, 48:10, 48:11, 50:7, 60:14, 63:19, 68:12, 71:22, 73:21, 74:11, 75:6, 75:10, 78:5, 78:9, 89:5, 92:8, 93:7, 95:5, 99:11, 101:13, 105:2, 106:5, 106:15, 106:22, 107:3, 107:4, 107:14, 108:1, 108:8, 116:18, 122:12, 126:22, 127:14, 127:18, 128:17, 128:19</p> <p>thinking 106:10</p> <p>thomas 108:9, 108:14, 114:16, 114:19, 114:20, 115:1, 115:3, 115:7, 121:9, 122:9</p> <p>thousand 78:10</p> <p>three 33:1, 108:21, 109:5, 109:11, 111:6, 111:15, 113:9</p> <p>three-step 21:7</p> <p>through 17:2, 18:22, 28:1, 41:20, 46:15, 49:3, 51:7, 53:8, 76:17, 78:18, 86:9, 119:1, 119:3, 119:8, 119:20, 120:1</p> <p>throughout 63:13</p>	<p>time 2:7, 4:10, 6:20, 6:22, 7:3, 7:4, 9:8, 25:7, 42:1, 66:19, 71:1, 77:1, 77:20, 80:2, 89:7, 92:16, 97:10, 97:13, 98:7, 99:20, 101:21, 102:21, 104:9, 119:15, 128:11, 129:11, 130:2</p> <p>times 84:9, 117:6, 117:11</p> <p>today 11:13, 11:21, 12:2, 13:3, 23:16, 28:4, 29:18, 89:17, 92:10, 108:9, 111:9, 126:17, 129:16, 130:15</p> <p>together 107:3</p> <p>took 19:6, 107:1, 111:10</p> <p>top 49:3, 78:7, 112:21</p> <p>topographic 26:9</p> <p>topographical 38:13</p> <p>topography 17:14, 18:3, 37:8, 37:17, 38:5, 57:21, 58:2</p> <p>torn 110:1</p> <p>total 10:4</p> <p>toward 57:18</p>	<p>towards 49:12, 82:5, 109:19</p> <p>town 98:19</p> <p>townhome 96:2</p> <p>towson 43:11</p> <p>traditional 44:4, 67:2, 68:3, 69:7, 69:18</p> <p>traffic 62:20, 63:1, 63:12, 63:16, 64:2, 66:2, 66:7, 66:11, 67:13, 68:2, 70:2, 72:9, 73:2, 73:12, 73:16, 74:8, 76:22, 81:15, 81:21, 83:12, 84:5, 84:16, 85:18, 86:5, 86:11, 86:15, 87:5, 88:2, 88:10, 88:14, 88:19, 89:9, 95:12, 97:1, 97:8, 97:16, 97:18, 97:19, 98:13, 99:18, 101:7, 101:11, 101:14, 104:6, 107:6, 107:7, 107:8, 116:4, 117:15, 118:22, 119:12, 120:17, 120:18, 120:21, 122:12, 124:18, 125:16, 125:17</p> <p>trail 50:22, 55:22</p> <p>trails 125:10</p> <p>training 17:1</p>
--	---	--	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>transcribed 1:22 transcriber 131:1 transcript 131:3, 131:5 transmittal 52:11 transparently 34:7 transportation 63:3, 64:7, 64:20, 65:12, 65:19, 66:10, 66:18, 70:8, 71:17, 71:20, 73:12, 73:15, 74:19, 102:13, 102:15 traveling 76:7, 87:16 travels 84:4 tree 18:14, 18:20, 25:5, 25:22, 26:6, 26:7, 26:16, 27:7, 27:14, 28:18, 31:6, 45:1, 45:9, 53:3, 53:12 trees 12:18, 13:1, 17:19, 20:18, 21:13, 21:17, 22:2, 24:3, 24:5, 24:9, 24:17, 25:1, 25:13, 25:16, 25:21, 26:12, 26:21, 28:18, 29:6, 29:7, 35:17, 41:15, 46:18, 48:22, 49:18, 49:20, 51:2, 51:12, 51:18, 52:8,</p>	<p>52:17, 54:7, 55:4, 110:2, 113:5 tributary 36:14, 38:10, 50:10 trick 37:13 tried 108:6, 112:17 trip 69:9, 69:15, 73:19 trips 68:3, 69:5, 69:16, 69:17, 73:18 trucks 106:3 true 66:9, 131:6 truth 2:22, 3:1, 42:19, 42:20, 62:7, 93:16, 93:17, 105:14, 105:15, 115:5, 115:6, 121:21 try 2:6, 46:12, 47:8, 47:11, 48:7, 70:15, 71:1, 71:10, 71:11, 87:5, 109:17 trying 2:18, 37:13, 46:21, 83:17, 83:19, 84:13, 85:8, 95:12, 109:8, 116:21, 117:10, 130:12 turn 31:4, 109:18, 116:20, 116:22, 117:3, 117:7, 117:10 turning 88:3, 96:21,</p>	<p>106:4, 117:4 turns 87:18, 87:19, 88:6 twice 86:4 two 9:14, 10:16, 10:18, 11:9, 25:12, 25:16, 25:21, 33:1, 45:20, 69:16, 69:17, 83:2, 84:16, 87:1, 103:21, 108:19, 110:6, 110:18 two-lane 82:18, 82:21, 83:8 two-way 97:8 two-week 117:22 type 27:7, 27:14, 45:1, 45:10, 53:11, 100:2, 117:14 typically 8:16</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>uh-huh 83:14 ultimate 26:14 ultimately 25:8, 38:10, 83:10, 114:3 under 2:18, 2:20, 19:3, 42:17, 62:5, 63:14, 93:14, 105:12, 115:3, 121:19, 122:14 understand 33:13, 36:16,</p>	<p>66:6, 70:19, 84:10, 84:13, 85:16, 124:11, 124:12, 130:6 understanding 13:16, 32:19 unique 35:21, 36:20, 36:22, 37:6, 38:13, 38:14, 39:1 uniqueness 36:21 unit 68:7, 69:10 units 49:11, 67:9, 68:13, 69:4, 69:7, 69:14, 69:18 university 5:17, 5:19, 10:13 unless 42:9, 111:13 unlike 67:2 unsafe 86:16 until 25:2, 48:15, 98:9 unwarranted 20:7, 22:21 updated 6:2, 44:11, 45:14, 52:10, 53:6 upgrades 125:4 upper 94:21, 105:21, 115:14, 122:5, 123:22 use 7:13, 23:9, 24:11, 24:12, 38:22, 39:10,</p>
---	---	---	--

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>74:22, 83:22, 128:7, 130:8 uses 39:7, 39:11 using 16:21, 82:2 utility 7:19, 29:9</p>	<p>3:10, 9:18, 10:3, 10:17, 11:1, 11:7, 11:22, 12:5, 12:11, 12:21, 13:4, 13:14, 13:20, 14:11, 103:15, 103:19, 104:14</p>	<p>visit 36:8 voices 124:12 voir 9:15 volume 99:17, 101:3</p>	<p>93:9, 93:22, 95:5, 95:7, 95:8, 97:22, 98:12, 104:20, 108:5, 108:6, 117:8, 124:2, 128:21 wanted</p>
<p style="text-align: center;">V</p>	<p style="text-align: center;">V</p>	<p style="text-align: center;">W</p>	<p style="text-align: center;">W</p>
<p>valley 94:21, 95:12, 123:21, 123:22 value 51:16 variance 12:17, 13:1, 18:14, 18:21, 19:18, 19:22, 20:2, 20:15, 21:22, 22:7, 22:18, 23:3, 23:12, 23:22, 24:20, 26:11, 27:6, 31:22, 32:14, 35:16, 35:19, 36:19, 53:4, 53:15, 54:5, 55:2 variances 20:10, 32:17, 54:1 various 8:16, 8:21, 12:7, 33:11 verge 41:17 versus 38:9, 67:20, 68:4, 69:21, 87:21, 88:7 viase 39:17 vice 3:19, 3:22, 4:11, 43:17 victoria 2:14, 3:2,</p>	<p>villa 16:21 vince 2:13, 3:5, 11:17, 15:3, 15:5, 30:21, 31:8, 31:12, 31:16, 39:18, 42:10, 42:14, 43:1, 45:13, 45:18, 46:6, 46:8, 46:14, 47:9, 47:11, 47:15, 47:19, 48:4, 48:7, 48:13, 48:16, 48:17, 57:4, 59:10, 59:14, 59:17, 60:11, 60:14, 61:9, 62:1, 62:11, 64:18, 65:13, 70:6, 71:3, 71:6, 71:8, 71:13, 71:15, 75:18, 80:19, 81:11, 85:2, 91:17, 91:19, 91:22, 92:3, 92:11, 92:14, 111:16, 121:10, 123:16, 126:11, 126:16, 128:19, 129:8, 129:12, 130:17 virginia 5:7, 5:8, 5:12, 7:9, 10:21, 11:4, 43:10</p>	<p>wait 58:22, 82:11, 91:11, 91:12, 92:7, 93:12, 93:13, 98:8, 103:3, 103:14, 105:3, 105:4, 108:15, 117:8, 123:13, 123:14 waiting 87:18, 116:20, 117:3, 117:6 waivers 20:10, 54:1 walk 46:15, 49:2, 86:7 walkable 124:18 walked 34:22, 36:9, 36:12, 36:17 walks 86:8 wanda 40:16, 40:20, 41:2, 41:10, 42:4, 59:5, 59:9, 59:19, 60:4, 92:16, 104:22, 105:7, 105:10, 105:16, 105:20 want 2:5, 14:15, 37:16, 54:14, 78:10, 79:4, 92:9, 92:19,</p>	<p>31:4, 31:10, 46:15, 67:17, 71:5, 108:19, 108:22, 114:15, 114:16 wants 79:22 washington 7:9 water 23:12, 24:21, 52:5, 58:15, 106:10, 106:13 waterway 44:8 way 77:2, 77:3, 83:2, 84:7, 84:11, 84:14, 84:17, 89:6, 91:3, 120:19, 121:4, 122:11, 122:13, 122:15 ways 84:8, 84:15 we'll 85:4, 89:14 we're 43:10, 56:5, 63:9, 68:10, 77:18, 88:21, 89:2, 89:3, 90:14, 97:20, 111:18, 111:20, 122:18 we've 21:11, 21:14, 63:14, 95:22, 128:1 wednesday 1:10</p>

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>week 13:22, 86:4 weight 124:13 welfare 30:18, 75:15, 81:8 went 47:18 west 8:10, 34:11, 104:1 westphalia 1:8, 8:9, 18:7, 21:12, 29:3, 34:15, 34:20, 41:5, 49:4, 57:14, 58:3, 67:11, 72:1, 72:2, 74:1, 76:6, 81:16, 81:18, 81:21, 82:5, 82:20, 87:8, 87:11, 87:13, 89:4, 90:19, 93:10, 96:18, 97:9, 98:20, 99:5, 100:1, 100:14, 100:15, 100:22, 101:5, 103:22, 105:21, 106:4, 107:7, 115:14, 116:3, 116:7, 116:15, 117:19, 118:2, 119:1, 119:3, 119:8, 122:5, 125:2, 125:11, 125:14 wet 7:19 wetland 24:6, 29:7, 44:8, 56:4 wetlands 17:20, 28:22, 35:22, 36:5, 37:4, 37:19,</p>	<p>38:1, 50:19, 51:4, 54:17, 124:7 whatever 47:2, 119:5 whether 33:19, 39:21, 109:4, 128:6 white 72:13 whoever 91:12 widen 100:11 widened 83:11, 83:12, 100:18 wiggly 76:9 wildlife 119:14, 120:11, 120:12, 124:16 window 118:20 windy 117:20 wish 121:13 within 6:14, 34:2, 39:8, 51:22, 52:8, 70:2 without 27:1 witness 9:2, 9:6, 9:10, 32:6, 32:18, 33:5, 33:12, 34:7, 36:2, 36:6, 37:7, 37:11, 37:14, 37:21, 38:18, 39:4, 39:11, 40:9, 41:7, 57:8, 57:19, 58:1, 58:5, 58:12, 58:18, 59:2, 60:20,</p>	<p>60:21, 62:1, 65:4, 76:4, 76:12, 79:10, 79:17, 80:17, 93:22, 94:7, 94:10, 94:14, 97:4, 105:5, 105:20, 109:2, 109:16, 110:10, 110:14, 110:16, 110:20, 111:2, 111:5, 111:11, 112:2, 112:11, 113:4, 113:14, 113:18, 114:8, 114:11, 123:11, 123:19, 126:1, 126:5 witnesses 128:6 wondered 32:13 woodland 19:19, 20:1, 20:3, 20:16, 22:14, 22:19, 28:19, 35:8, 36:13, 44:7, 51:11, 52:1, 52:21, 53:16 word 77:10 work 7:18, 49:5, 49:7, 63:9, 63:12, 63:14, 73:8, 107:22, 117:22, 122:17 workday 118:9 worked 7:4, 12:6, 63:17, 63:20, 69:1, 71:14 working 6:12, 6:19, 6:21, 7:2, 46:22, 47:14,</p>	<p>68:11, 68:12, 122:21 works 48:14, 69:1, 78:18 worry 98:2 wrap 113:7 wrong 100:1 wssc 17:12 <hr/> <p style="text-align: center;">X</p> <hr/> <p>x's 49:16 <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yard 119:20, 120:2 yeah 31:12, 46:21, 48:6, 48:9, 48:10, 50:7, 58:1, 59:14, 60:4, 67:17, 79:15, 84:3, 84:20, 85:1, 85:9, 90:18, 91:2, 94:17, 98:15, 101:11, 106:15, 111:5, 114:8, 119:14, 119:19, 123:5, 123:11, 129:8 year 5:8, 119:4 years 11:9, 63:16, 86:1, 86:2, 89:17, 99:12, 107:13, 116:3, 116:6, 122:14, 125:5 <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 69:10</p> </p></p></p>
---	---	---	---

Transcript of Recorded Hearing
 Conducted on August 30, 2023

<p>zhe 64:11, 92:4, 126:19 zhe's 6:1, 44:10 zone 26:2, 39:7, 84:1, 130:9 zoning 14:2, 22:13, 31:4, 39:2, 39:4, 52:12, 58:21, 64:9, 74:15, 83:17, 83:18, 83:21, 95:16, 95:20, 124:15, 130:7 zoom 48:4, 117:4, 117:9 zooming 118:13</p>	<p>119 31:21 12 9:22, 11:4 122 20:15, 54:6 13 9:22, 32:4 131 1:21 14 69:5 15 68:5, 69:8, 86:1, 87:12, 89:17 18 69:5, 69:9 19 29:22, 30:7, 56:17, 57:2 1994 4:5, 10:6 1995 99:11</p>	<p>68:12 2022 18:9, 18:13, 18:19 2023 1:10, 22:11, 27:8, 27:11, 45:10, 131:16 20772 94:22 20774 3:12, 105:22, 115:15 21 116:3, 116:6 21061 62:17 21286 43:11 23 24:4 23002 1:8 24 111:2 25 20:15, 20:17, 22:1, 23:22, 24:4, 26:12, 27:6, 31:21, 45:6, 54:6, 55:3, 56:3 267 99:6 27 15:22, 128:5 2nd 31:16</p>	<p>33 63:16 370 3:11</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>400 62:16 41 25:1, 25:5, 26:7 45 27:21, 55:8 48 66:4, 67:14, 70:4 4856 1:8, 14:1</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>506234 1:20 512 43:10</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>61 67:9, 68:10, 69:1, 69:14 626 72:4 627 90:4 63 64:11 65 68:6, 68:17, 69:1, 69:3 670 31:7 69 31:13, 31:14</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>71 44:10 72 6:1</p>
<p style="text-align: center;">(</p> <hr/> <p>(b) (1) (g) 20:15</p>	<p style="text-align: center;">2</p> <hr/> <p>20 17:2, 68:1, 68:3, 69:7, 69:10, 69:18, 73:18, 111:2</p>	<p style="text-align: center;">3</p> <hr/> <p>30 1:10, 107:13</p>	<p style="text-align: center;">7</p> <hr/> <p>71 44:10 72 6:1</p>
<p>(d) (2) 31:21</p> <hr/> <p style="text-align: center;">0</p>	<p>2009 6:19 2012 6:19 2014 6:22 2018 4:2, 5:7, 5:11, 5:12, 7:1 2019 4:9 2020 16:16 2021 16:18, 16:19, 17:3, 17:6,</p>	<p>21061 62:17 21286 43:11 23 24:4 23002 1:8 24 111:2 25 20:15, 20:17, 22:1, 23:22, 24:4, 26:12, 27:6, 31:21, 45:6, 54:6, 55:3, 56:3 267 99:6 27 15:22, 128:5 2nd 31:16</p>	<p>512 43:10</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>61 67:9, 68:10, 69:1, 69:14 626 72:4 627 90:4 63 64:11 65 68:6, 68:17, 69:1, 69:3 670 31:7 69 31:13, 31:14</p>
<p>006 22:11, 27:8, 27:11, 45:10</p>	<p>2019 4:9 2020 16:16 2021 16:18, 16:19, 17:3, 17:6,</p>	<p>30 1:10, 107:13 317 128:5 3208 123:21 3214 94:21, 123:21</p>	<p>61 67:9, 68:10, 69:1, 69:14 626 72:4 627 90:4 63 64:11 65 68:6, 68:17, 69:1, 69:3 670 31:7 69 31:13, 31:14</p>
<p>01 68:5 02 68:5</p> <hr/> <p style="text-align: center;">1</p>	<p>2019 4:9 2020 16:16 2021 16:18, 16:19, 17:3, 17:6,</p>	<p>30 1:10, 107:13 317 128:5 3208 123:21 3214 94:21, 123:21</p>	<p>61 67:9, 68:10, 69:1, 69:14 626 72:4 627 90:4 63 64:11 65 68:6, 68:17, 69:1, 69:3 670 31:7 69 31:13, 31:14</p>
<p>1,500 74:4 10 9:21, 33:3, 33:22 10.00 33:5 11 9:22, 128:1</p>	<p>2019 4:9 2020 16:16 2021 16:18, 16:19, 17:3, 17:6,</p>	<p>30 1:10, 107:13 317 128:5 3208 123:21 3214 94:21, 123:21</p>	<p>61 67:9, 68:10, 69:1, 69:14 626 72:4 627 90:4 63 64:11 65 68:6, 68:17, 69:1, 69:3 670 31:7 69 31:13, 31:14</p>

<p>74 70:7, 71:5, 71:6</p> <p>76 31:10, 31:18, 45:15, 45:17, 46:3</p> <p>77 53:8</p> <p>78 111:19, 112:5, 112:7, 112:10, 113:2</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>80 63:20</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9400 105:21</p> <p>9401 1:8</p> <p>9500 3:10</p> <p>9503 115:13</p> <p>9807 81:16, 122:5</p>	
--	--