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Transcript of Hearing

Date: February 22, 2023

Case: ZMA 2022-001 Land Development Investors, LLC

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In re:
HEARING IN RE:
ZMA 2022-001, LAND DEVELOPMENT INVESTORS, LLC

RECORDED CONVERSATION
Wednesday, February 22, 2023

Job No.: 482976
Pages: 1 - 20
Transcribed by: Lauren Bishop

1 MAUREEN MCNEIL: Okay. Good morning,
2 everyone. I'm Maureen McNeil (phonetic). I'll be the
3 hearing examiner today. It is February 22nd, 2023.
4 And the case is zoning map amendment Dash 2022-001.
5 I'm going to give you a brief history of where we are
6 today before we start, and that is that on February
7 the 8th, we held a hearing in this matter, that was
8 duly advertised signs posted and no one appeared in
9 opposition. We had at least four witnesses testify
10 and we continued the matter because Park and Planning
11 had been able to comment on everything that had been
12 filed prior to our hearing, but we admitted land
13 planning analysis from the expert land planning
14 witness, Mr. Mark Ferguson (phonetic), and we wanted
15 to allow Park and Planning to look at the additional
16 arguments as to why applicant should be allowed to
17 rezone their property from the -- memorize that zone
18 -- from the -- hold on one second. From the RR zone
19 to the RMF-48 zone which is for multi-family dwelling
20 development. So, we sent that information to Park and
21 Planning and while that was occurring, we learn from
22 Mr. Suhar, who is here, I hope. Where's Mr. Suhar?

1 SEAN SUHAR: Good morning. Yes. Sean Suhar
2 with the firm Nagle and Zaller. We're counsel to
3 Wingate Homeowners Association, which is across the
4 street essentially, from the subject property.

5 MAUREEN MCNEIL: Okay.

6 SEAN SUHAR: Thank you for allowing me.

7 MAUREEN MCNEIL: Okay, Mr. Suhar. I am
8 going to give you a second to -- to bring us up to
9 speed as to why you all are here today.

10 SEAN SUHAR: Sure.

11 MAUREEN MCNEIL: So, Mr. Suhar represents
12 the association. They would -- they ask to become
13 persons of record and they have the right to do that
14 anytime until I've taken this case under advisement,
15 but I'm going to allow Mr. Suhar state on the record
16 why he wants to, and I'm going to allow Mr. Foreman,
17 who represents the applicant to respond if he would
18 like or people zoning counsel, Mr. Brown. But we also
19 have, I hope, Mr. -- he's going to kill me. Okay, you
20 all, I haven't had enough coffee today. Mr. David
21 Warner from Park and Planning is going to explain why
22 they may need more time to submit any comments of Mr.

1 Ferguson's statement. Mr. Warner, I see that you're
2 here. Okay.

3 DAVID WARNER: I am here. Thank you.

4 MAUREEN MCNEIL: All right. So, that brings
5 us up to today, I believe. And at this point I can't
6 decide if it's better to hear from Mr. Warner or Mr.
7 Suhar first. So, I think -- I think I'll do Mr. Suhar
8 and then Mr. Warner will request a continuance and
9 all counsel can weigh in on that. So, Mr. Suhar, take
10 it away.

11 SEAN SUHAR: All right. Thank you very
12 much. Can you hear me?

13 MAUREEN MCNEIL: Yes.

14 SEAN SUHAR: Okay. Great. Thank you, again,
15 Ms. McNeil. Good morning, everyone. Good morning to
16 you, Ms. McNeil, zoning hearing examiner and everyone
17 in attendance of this virtual hearing. My name is
18 Sean Suhar. I'm an attorney, as I said stated before
19 -- I'm an attorney with the firm of Nagle and Zaller.
20 And our firm represents the Wingate Homeowners
21 Association as a party of record in this matter and I
22 do have the board president, Dr. Unette Thomas

1 (phonetic) who is here as well this morning. We would
2 also like to make statements, and she is the -- she
3 is a citizen of the -- the homeowner, you know, of
4 Prince George's County and also Wingate Homeowners
5 Associations, who is a resident and owner of property
6 there. We had contacted you, Ms. McNeil, after we --
7 we discovered that there was a hearing on February
8 8th, 2023 concerning ZMA 2022-001, which is the
9 matter -- which is being heard this morning, and also
10 it was initiated by a request from Land Development
11 advisor investors to Mary Ann Davis trust. But, we
12 did not hear -- we did not appear for the February
13 8th hearing because Wingate Homeowners Association
14 was never notified. We didn't receive -- we were not
15 --unfortunately, Wingate Homeowners Association is
16 not -- was not on the list. I had reviewed the binder
17 and -- and could not find Wingate Homeowners
18 Association on that list. We're also not immediately
19 adjacent to the subject property, but Wingate is
20 located, very close to the applicants property. It's
21 not adjacent but it's basically located across the
22 street. And, but we thank you for allowing us an

1 opportunity to be heard. I -- I can continue with
2 the, you know, statements for the record if you want
3 me to at this time, Ms. McNeil?

4 MAUREEN MCNEIL: No. If you would wait one
5 second. And that reminds me of something else. And
6 everyone is muted. If you're not speaking, try to be
7 muted because this is being recorded and we sometimes
8 can't hear each other. But I want you to wait one
9 second and I'm going to ask Mr. Foreman or Mr. Brown
10 if they have any objection to allowing Mr. Suhar and
11 the Homeowners Association to proceed in this
12 hearing.

13 NATE FOREMAN: Good morning, Ms. McNeil. I
14 assume I'll go first. For the record, Nate Foreman.
15 I'm here on behalf of the applicant, Land Development
16 Investors to -- we will not object to the testimony
17 from Mr. Suhar and Ms. Thomas this morning. As
18 everyone knows, the right to appeal or right to speak
19 at a land use or administrative hearing is laxer
20 compared to judicial review. However, I would like
21 the chance to possibly cross-examine, or least bring
22 forth some rebuttal testimony depending upon what the

1 testimony that is said this morning. But no, we were
2 -- we do not object to letting this be included into
3 the record as long as it's limited in scope and --
4 but we are a little, you know, just unsure, you know,
5 we did the mailing, we did the notification and
6 collection of park and planning records. So, you
7 know, and we did properly advertise the hearing and
8 we did properly post the property. So, I don't know
9 if there's any real reason why there was no
10 notification why I was impossible for Wingate HOA or
11 its representatives to appear at the February hear --
12 hearing, but, you know, we will let them testify this
13 morning. Thank you.

14 MAUREEN MCNEIL: Okay. Thank you. Mr.
15 Brown?

16 STAN BROWN: Yes. Good morning. The Wingate
17 Homeowners Association and Mr. Suhar have an absolute
18 right to testify. The record has not closed and so
19 they are persons of record and parties in opposition.
20 Not only do they have a right to testify this
21 morning, they have a right to cross-examine any
22 witnesses that have already testified on behalf of

1 the applicant. I guess the issue though, Mr. Suhar
2 is, assuming Mr. Warner asked for a continuance
3 because the documentation of Park and Planning could
4 not be provided today, since the planning board
5 didn't have an opportunity to act upon any revised
6 staff report. The issue becomes whether or not you
7 want to wait until a subsequent date, assuming it's
8 going to be continued, to either put on your case and
9 or to cross-examine those witnesses that have already
10 been -- have already testified. I'm not asking you to
11 answer that question now. I'll leave that up to the
12 examiners whether she continues the case, but you may
13 want to wait until all of the evidence is in the
14 record before you put on your witnesses. Thank you.

15 MAUREEN MCNEIL: Okay. So, Mr. Suhar, we
16 are good with you for the moment. All right, Mr.
17 Warner, are you ready to proceed?

18 DAVID WARNER: Yes, Ms. McNeil. Thank you
19 very much. David Warner, principal counsel for the
20 Prince George's County planning board. Apologize.

21 MAUREEN MCNEIL: One second. Can you come
22 on camera or you're not able to do so?

1 DAVID WARNER: I apologize that I'm not
2 camera ready at the moment.

3 MAUREEN MCNEIL: Okay.

4 DAVID WARNER: For some reason, my laptop
5 is having issues. So crazy --

6 MAUREEN MCNEIL: Then I will note for the
7 record that is Mr. Warner. I have talked to him ad
8 nauseam over the years. So I recognize his voice.

9 DAVID WARNER: I wouldn't call it ad
10 nauseam. Okay. Fair enough. That's always been
11 pleasant. Well, most of the time. I am -- I am
12 appearing on behalf of the planning board just to --
13 to advise those that aren't aware of our role. When
14 an application for a zoning map amendment is filed
15 with us, our staff prepares a technical staff report.
16 That report goes to the planning board for its
17 review. The planning board has the option of
18 requesting and holding a hearing on it. They did not
19 do so in this case and on December 15th, we forwarded
20 our technical staff report to the zoning hearing
21 examiner on this case. And then on February 8th,
22 apparently, some additional evidence had been

1 submitted by Mr. Ferguson, and Ms. McNeil asked the
2 planning department provide additional comments on
3 that evidence. And so we've only had one planning
4 board hearing since that date and this did not make
5 it on that agenda, but our intent is to have it on
6 the agenda for tomorrow and then it would be
7 available to you for hearing on March 1st, if you
8 were willing to continue to that date.

9 MAUREEN MCNEIL: Thank you, Mr. Warner. And
10 does anyone strenuously object to this continuance to
11 allow Park and Planning to submit any of you guys
12 comments? Mr. Foreman?

13 NATE FOREMAN: Good morning. Yeah. For the
14 record, Nate Foreman. We do object to a continuance
15 of today's hearing. However, we do -- we would not
16 object to holding the record open for March 1st for
17 the planning staff and planning board to submit their
18 recommendation and for the applicant to submit the
19 documents that were requested by Madame examiner at
20 her -- at the February 8th hearing. So again, we
21 object to the continuance of today's hearing, but we
22 do not object to keeping the record open until the

1 end of March 1st for the limited purpose of
2 submitting, the planning board recommendation, and
3 the additional documents that were requested by the -
4 - during the hearing exam.

5 MAUREEN MCNEIL: Mr. Brown?

6 STAN BROWN: The technical staff report
7 will be evidence in the -- in the case. So, it's
8 critical to the case. And so, it would be improper
9 not to continue the case pending introduction of that
10 particular evidence.

11 MAUREEN MCNEIL: Mr. Suhar?

12 SEAN SUHAR: I -- I would -- I would -- I
13 agree with Mr. Brown. Quite frankly, I'd like to see
14 the technical staff report and its entirety. And so
15 I've consulted with my client already and we're --
16 we're agreement to wait. I think it would be a good
17 idea for everyone here, including you Ms. McNeil, for
18 all of us to wait until, you know, and to have a
19 continuance granted until it was March 1st it was
20 being proposed, which is a very short period of time.
21 So, I don't -- I don't see what the problem would be
22 with waiting until March 1st for everybody to -- to,

1 you know, testify at that point. So I'm in support of
2 the time. I don't -- I don't object to -- we don't
3 object to the continuance.

4 MAUREEN MCNEIL: Okay. Mr. Foreman, I hear
5 you, but I also agree that it's proper for me to be
6 able to read that evidence and perhaps I'd have
7 additional questions based on whatever they wrote and
8 I thought you were going to call Mr. Ferguson again,
9 in any event. So, are you all available with March
10 1st at 9:30? And what would happen is, we'd be --
11 we'd be taking in the planning boards information. We
12 would call Mr. Ferguson if we -- if you wanted to on
13 your own or if we had questions of him. And Mr. Suhar
14 and his client would put on any testimony, that they
15 would like to put on. That also gives them slightly
16 more time to go through the binder because they
17 didn't get a chance to hear from the other witnesses,
18 but I found it -- I find it to be improper to have to
19 start all over again, Mr. Suhar. So, what you missed
20 was the one expert witness and the actual land owners
21 that -- explaining why they want to sell the property
22 in this manner, and all of that is in the binder and

1 hopefully, I don't want to -- I don't want to swear
2 to this, but you can watch the proceedings. You can
3 watch the streaming proceedings. I was hoping I would
4 have a transcript, but our transcriptionist put us
5 behind the court system. So, it always takes a little
6 longer for us to get our transcripts. But, since you
7 have an opportunity to have heard those witnesses and
8 review the documents, we will be starting at the next
9 hearing simply with parking and planning information
10 any testimony you want to put on in reply, Mr.

11 Foreman and then Mr. Suhar's case in opposition.

12 Okay? But are you all available on the 1st? Okay.

13 SEAN SUHAR: Yeah.

14 MAUREEN MCNEIL: Mr. Brown? Great. Mr.

15 Foreman, you're available --

16 STAN BROWN: Yes, but one quick question
17 though, Mr. Warner. The planning board meets
18 tomorrow, the 23rd and normally they take seven days
19 to issue that decision or revision. Will you actually
20 have, you think, the revised staff report on March
21 1st or before or coordinate -- I think tradition, you
22 probably wouldn't actually have the executed document

1 until March 1. Right?

2 NATE FOREMAN: No. Our intention -- and I
3 conferred with the chair on this is that we will have
4 it on the agenda for tomorrow and then if they
5 approve of its contents, it will be forwarded
6 immediately to the zoning hearing examiner's.

7 STAN BROWN: Okay. Great. Great. Thank you.

8 NATE FOREMAN: If I may ask real quick, Mr.
9 Warner, is the technical staff report prepared and
10 finalized at this point for review? Because I know
11 obviously planning board hasn't made the
12 recommendation, but it would still maybe be helpful
13 for us to get a copy of the updated technical staff
14 report.

15 DAVID WARNER: Well, no. No, Mr. Foreman it
16 wouldn't be appropriate until they vote on it
17 tomorrow. All right?

18 NATE FOREMAN: Okay.

19 MAUREEN MCNEIL: And also, I'm assuming Mr.
20 Warner, let me know if I'm incorrect -- I'm assuming
21 they would -- they would adopt the one they had
22 before and they're just revising it as to certain

1 portions. Is that correct?

2 DAVID WARNER: Correct. Depending on what
3 the final report says they will be essentially taking
4 their recommendation from the 15th and revising it to
5 address the additional evidence that was presented.
6 And they're just, you know, we're all doing it
7 frankly as fast as we can. And so, to get it to you
8 so you can have your hearing on the first without
9 delaying you any further.

10 MAUREEN MCNEIL: Okay. Thank you. We
11 appreciate that. Then I will overrule Mr. Foreman's
12 objection and this matter will be continued until
13 February -- March 1st at 9:30. Which is next,
14 Wednesday. And a little more housekeeping. Mr. Suhar,
15 you asked to become a person of record and generally
16 counsel are treated as Persons of Interest, meaning,
17 you would still get any decision and still represent
18 your client. But, if you want to be a person of
19 record, anybody can be a person of record. Just let
20 me know which you prefer.

21 SEAN SUHAR: Well, I just want to make sure
22 that Wingate Homeowners Association is a party of

1 record itself, the organization. And so, if it -- if
2 it takes me to do that as a representative of the
3 HOA, then then, yes, I would like to personally be
4 taper party of record.

5 MAUREEN MCNEIL: Okay. Look at --

6 SEAN SUHAR: I am an attorney as well.

7 MAUREEN MCNEIL: Okay.

8 SEAN SUHAR: And then Dr. Thomas has
9 expressed --

10 MAUREEN MCNEIL: I think she should say
11 that. Both of you put it in writing to me already.
12 So, you are persons of record. I didn't know if he
13 wanted if you wanted to stay that way. So you both
14 will be persons of record and --

15 SEAN SUHAR: Thank you.

16 MAUREEN MCNEIL: And I understand -- now,
17 what isn't part of the record as anything else you
18 wrote to me? Because all -- all testimony, all
19 evidence has to be at the hearing. So, on the 1st, if
20 there's anything in writing you all want to give me
21 your anything in writing Mr. Foreman wants to give me
22 and reply, we'll just handle that on the 1st or --

1 you can submit it at this time, I suppose now that
2 you are a person of record, as long, as you give it
3 to Mr. Brown and Mr. Foreman as well, as myself. And
4 Mr. Foreman, if you have anything, you know, to do
5 that as well. And when you send it to us, we'll mark
6 it as an exhibit, put it on out on the internet and
7 address it next Wednesday if anybody's opposed. So
8 you can do it either way, wait until next Wednesday
9 or send it now.

10 MALE SPEAKER 1: I'm not an examiner. I had
11 sent some exhibits last night and --

12 MAUREEN MCNEIL: I know you did.

13 MALE SPEAKER 1: and I do apologize but
14 this was too hard. So can those be included into the
15 record this time?

16 MAUREEN MCNEIL: If you would like to,
17 okay. That's fine. And if you want to submit
18 anything, Mr. Suhar, just let me know and I'll give
19 it to the other parties and we'll post it and will
20 mark them as exhibits and give you all updated
21 exhibit list before next Wednesday.

22 SEAN SUHAR: Okay. Fantastic. Thank you so

1 much, Ms. McNeil.

2 MAUREEN MCNEIL: Okay. So I see there were
3 other people present and they have nothing to say I
4 take it if I don't hear from them. Who is caller two?
5 Anybody know?

6 NATE FOREMAN: I know that Mr. Atar
7 (phonetic) from my side had been caller one, but I
8 don't know who caller two is at this time.

9 SEAN SUHAR: I am not aware.

10 MALE SPEAKER 1: We may be caller. Our
11 calls dropped. I am sorry. We just called back in
12 because our call dropped. I am sorry.

13 MAUREEN MCNEIL: Okay. Mr. Atar, you don't
14 have anything you want to add, do you?

15 MALE SPEAKER 1: No. That's okay. Whatever
16 -- whatever Mr. Foreman does is -- is -- he is
17 representing me. That is fine. Thank you.

18 MAUREEN MCNEIL: Okay. And I thank you all
19 for being here today and we will be ready to go next
20 Wednesday at 9:30. Thank you, all.

21 SEAN SUHAR: Thank you very much. Take
22 care.

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CERTIFICATE OF TRANSCRIBER

I, Lauren Bishop, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by and of the parties to this case and have no interest, financial or otherwise, in its outcome.

Lauren Bishop

LAUREN BISHOP
Planet Depos,
March 3, 2023

Transcript of Hearing
Conducted on February 22, 2023

A			
ability	12:8, 12:19	15:9, 15:17	association
20:5	agenda	anybody	3:3, 3:12,
able	10:5, 10:6,	15:19, 18:5	4:21, 5:13,
2:11, 8:22,	14:4	anybody's	5:15, 5:18,
12:6	agree	17:7	6:11, 7:17,
absolute	11:13, 12:5	anyone	15:22
7:17	agreement	10:10	associations
across	11:16	anything	5:5
3:3, 5:21	all	16:17, 16:20,	assume
act	3:9, 3:20, 4:4,	16:21, 17:4,	6:14
8:5	4:9, 4:11, 8:13,	17:18, 18:14	assuming
actual	8:16, 11:18,	anytime	8:2, 8:7,
12:20	12:9, 12:19,	3:14	14:19, 14:20
actually	12:22, 13:12,	apologize	atar
13:19, 13:22	14:17, 15:6,	8:20, 9:1,	18:6, 18:13
ad	16:18, 16:20,	17:13	attendance
9:7, 9:9	17:20, 18:18,	apparently	4:17
add	18:20	9:22	attorney
18:14	allow	appeal	4:18, 4:19,
additional	2:15, 3:15,	6:18	16:6
2:15, 9:22,	3:16, 10:11	appear	audio
10:2, 11:3,	allowed	5:12, 7:11	20:6
12:7, 15:5	2:16	appeared	available
address	allowing	2:8	10:7, 12:9,
15:5, 17:7	3:6, 5:22, 6:10	appearing	13:12, 13:15
adjacent	already	9:12	aware
5:19, 5:21	7:22, 8:9,	applicant	9:13, 18:9
administrative	8:10, 11:15,	2:16, 3:17,	away
6:19	16:11	6:15, 8:1, 10:18	4:10
admitted	also	applicants	B
2:12	3:18, 5:2, 5:4,	5:20	back
adopt	5:9, 5:18, 12:5,	application	18:11
14:21	12:15, 14:19	9:14	based
advertise	always	appreciate	12:7
7:7	9:10, 13:5	15:11	basically
advertised	amendment	appropriate	5:21
2:8	2:4, 9:14	14:16	because
advise	analysis	approve	2:10, 5:13,
9:13	2:13	14:5	6:7, 8:3, 12:16,
advisement	ann	aren't	14:10, 16:18,
3:14	5:11	9:13	18:12
advisor	answer	arguments	become
5:11	8:11	2:16	3:12, 15:15
after	any	asked	becomes
5:6	3:22, 6:10,	8:2, 10:1,	8:6
again	7:9, 7:21, 8:5,	15:15	been
4:14, 10:20,	10:11, 12:9,	asking	2:11, 8:10,
	12:14, 13:10,	8:10	

Transcript of Hearing
 Conducted on February 22, 2023

<p>9:10, 9:22, 18:7 before 2:6, 4:18, 8:14, 13:21, 14:22, 17:21 behalf 6:15, 7:22, 9:12 behind 13:5 being 5:9, 6:7, 11:20, 18:19 believe 4:5 best 20:5 better 4:6 binder 5:16, 12:16, 12:22 bishop 1:22, 20:2, 20:14 board 4:22, 8:4, 8:20, 9:12, 9:16, 9:17, 10:4, 10:17, 11:2, 13:17, 14:11 boards 12:11 both 16:11, 16:13 brief 2:5 bring 3:8, 6:21 brings 4:4 brown 3:18, 6:9, 7:15, 7:16, 11:5, 11:6, 11:13, 13:14, 13:16, 14:7,</p>	<p>17:3 <hr/> <p style="text-align: center;">C</p> <hr/> call 9:9, 12:8, 12:12, 18:12 called 18:11 caller 18:4, 18:7, 18:8, 18:10 calls 18:11 camera 8:22, 9:2 can't 4:5, 6:8 care 18:22 case 2:4, 3:14, 8:8, 8:12, 9:19, 9:21, 11:7, 11:8, 11:9, 13:11, 20:8 certain 14:22 certificate 20:1 certify 20:2 chair 14:3 chance 6:21, 12:17 citizen 5:3 client 11:15, 12:14, 15:18 close 5:20 closed 7:18 coffee 3:20 collection 7:6</p>	<p>come 8:21 comment 2:11 comments 3:22, 10:2, 10:12 compared 6:20 concerning 5:8 concluded 19:2 conferred 14:3 consulted 11:15 contacted 5:6 contents 14:5 continuance 4:8, 8:2, 10:10, 10:14, 10:21, 11:19, 12:3 continue 6:1, 10:8, 11:9 continued 2:10, 8:8, 15:12 continues 8:12 conversation 1:11 coordinate 13:21 copy 14:13 correct 15:1, 15:2, 20:3 could 5:17, 8:3 counsel 3:2, 3:18, 4:9, 8:19, 15:16, 20:7</p>	<p>county 5:4, 8:20 court 13:5 crazy 9:5 critical 11:8 cross-examine 6:21, 7:21, 8:9 <hr/> <p style="text-align: center;">D</p> <hr/> dash 2:4 date 8:7, 10:4, 10:8 david 3:20, 4:3, 8:18, 8:19, 9:1, 9:4, 9:9, 14:15, 15:2 davis 5:11 days 13:18 december 9:19 decide 4:6 decision 13:19, 15:17 delaying 15:9 department 10:2 depending 6:22, 15:2 depos 20:15 development 1:9, 2:20, 5:10, 6:15 discovered 5:7 document 13:22 documentation 8:3</p>
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Transcript of Hearing
 Conducted on February 22, 2023

<p>documents 10:19, 11:3, 13:8 doing 15:6 don't 18:4, 18:13 dr 4:22, 16:8 dropped 18:11, 18:12 duly 2:8 during 11:4 dwelling 2:19</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each 6:8 either 8:8, 17:8 else 6:5, 16:17 employed 20:7 end 11:1 enough 3:20, 9:10 entirety 11:14 essentially 3:4, 15:3 event 12:9 everybody 11:22 everyone 2:2, 4:15, 4:16, 6:6, 6:18, 11:17 everything 2:11 evidence 8:13, 9:22, 10:3, 11:7,</p>	<p>11:10, 12:6, 15:5, 16:19 exam 11:4 examiner 2:3, 4:16, 9:21, 10:19, 17:10 examiner's 14:6 examiners 8:12 executed 13:22 exhibit 17:6, 17:21 exhibits 17:11, 17:20 expert 2:13, 12:20 explain 3:21 explaining 12:21 expressed 16:9</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fair 9:10 fantastic 17:22 fast 15:7 february 1:12, 2:3, 2:6, 5:7, 5:12, 7:11, 9:21, 10:20, 15:13 ferguson 2:14, 10:1, 12:8, 12:12 ferguson's 4:1 filed 2:12, 9:14 final 15:3</p>	<p>finalized 14:10 financial 20:9 find 5:17, 12:18 fine 17:17, 18:17 firm 3:2, 4:19, 4:20 first 4:7, 6:14, 15:8 foregoing 20:3 foreman 3:16, 6:9, 6:13, 6:14, 10:12, 10:13, 10:14, 12:4, 13:11, 13:15, 14:2, 14:8, 14:15, 14:18, 16:21, 17:3, 17:4, 18:6, 18:16 foreman's 15:11 forth 6:22 forwarded 9:19, 14:5 found 12:18 four 2:9 frankly 11:13, 15:7 further 15:9</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>generally 15:15 george's 5:4, 8:20 give 2:5, 3:8, 16:20, 16:21,</p>	<p>17:2, 17:18, 17:20 gives 12:15 go 6:14, 12:16, 18:19 goes 9:16 going 2:5, 3:8, 3:15, 3:16, 3:19, 3:21, 6:9, 8:8, 12:8 good 2:1, 3:1, 4:15, 6:13, 7:16, 8:16, 10:13, 11:16 granted 11:19 great 4:14, 13:14, 14:7 guess 8:1 guys 10:11</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>handle 16:22 happen 12:10 hard 17:14 haven't 3:20 hear 4:6, 4:12, 5:12, 6:8, 7:11, 12:4, 12:17, 18:4 heard 5:9, 6:1, 13:7 hearing 1:8, 2:3, 2:7, 2:12, 4:16,</p>
--	---	--	---

Transcript of Hearing
Conducted on February 22, 2023

<p>4:17, 5:7, 5:13, 6:12, 6:19, 7:7, 7:12, 9:18, 9:20, 10:4, 10:7, 10:15, 10:20, 10:21, 11:4, 13:9, 14:6, 15:8, 16:19 held 2:7 helpful 14:12 here 2:22, 3:9, 4:2, 4:3, 5:1, 6:15, 11:17, 18:19 hereby 20:2 history 2:5 hoa 7:10, 16:3 hold 2:18 holding 9:18, 10:16 homeowner 5:3 homeowners 3:3, 4:20, 5:4, 5:13, 5:15, 5:17, 6:11, 7:17, 15:22 hope 2:22, 3:19 hopefully 13:1 hoping 13:3 housekeeping 15:14 however 6:20, 10:15</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p style="text-align: center;">I</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p>idea 11:17</p>	<p>immediately 5:18, 14:6 impossible 7:10 improper 11:8, 12:18 included 7:2, 17:14 including 11:17 incorrect 14:20 information 2:20, 12:11, 13:9, 20:6 initiated 5:10 intent 10:5 intention 14:2 interest 15:16, 20:8 internet 17:6 introduction 11:9 investors 1:9, 5:11, 6:16 issue 8:1, 8:6, 13:19 issues 9:5 itself 16:1</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p style="text-align: center;">J</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p>job 1:20 judicial 6:20</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p style="text-align: center;">K</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p>keeping 10:22 kill 3:19 know 5:3, 6:2, 7:4,</p>	<p>7:7, 7:8, 7:12, 11:18, 12:1, 14:10, 14:20, 15:6, 15:20, 16:12, 17:4, 17:12, 17:18, 18:5, 18:6, 18:8 knows 6:18</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p style="text-align: center;">L</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p>land 1:9, 2:12, 2:13, 5:10, 6:15, 6:19, 12:20 laptop 9:4 last 17:11 lauren 1:22, 20:2, 20:14 laxed 6:19 learn 2:21 least 2:9, 6:21 leave 8:11 letting 7:2 limited 7:3, 11:1 list 5:16, 5:18, 17:21 little 7:4, 13:5, 15:14 llc 1:9 located 5:20, 5:21 long 7:3, 17:2 longer 13:6</p>	<p>look 2:15, 16:5</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p style="text-align: center;">M</p> <hr style="width: 50%; margin-left: auto; margin-right: auto;"/> <p>madame 10:19 made 14:11 mailing 7:5 make 5:2, 10:4, 15:21 male 17:10, 17:13, 18:10, 18:15 manner 12:22 map 2:4, 9:14 march 10:7, 10:16, 11:1, 11:19, 11:22, 12:9, 13:20, 14:1, 15:13, 20:16 mark 2:14, 17:5, 17:20 mary 5:11 matter 2:7, 2:10, 4:21, 5:9, 15:12 maureen 2:1, 2:2, 3:5, 3:7, 3:11, 4:4, 4:13, 6:4, 7:14, 8:15, 8:21, 9:3, 9:6, 10:9, 11:5, 11:11, 12:4, 13:14, 14:19, 15:10, 16:5, 16:7, 16:10, 16:16, 17:12, 17:16, 18:2, 18:13, 18:18 maybe 14:12</p>
--	---	--	--

Transcript of Hearing
Conducted on February 22, 2023

<p>mcneil 2:1, 2:2, 3:5, 3:7, 3:11, 4:4, 4:13, 4:15, 4:16, 5:6, 6:3, 6:4, 6:13, 7:14, 8:15, 8:18, 8:21, 9:3, 9:6, 10:1, 10:9, 11:5, 11:11, 11:17, 12:4, 13:14, 14:19, 15:10, 16:5, 16:7, 16:10, 16:16, 17:12, 17:16, 18:1, 18:2, 18:13, 18:18 meaning 15:16 meets 13:17 memorize 2:17 missed 12:19 moment 8:16, 9:2 more 3:22, 12:16, 15:14 morning 2:1, 3:1, 4:15, 5:1, 5:9, 6:13, 6:17, 7:1, 7:13, 7:16, 7:21, 10:13 most 9:11 much 4:12, 8:19, 18:1, 18:21 multi-family 2:19 muted 6:6, 6:7 myself 17:3</p>	<p style="text-align: center;">N</p> <hr/> <p>nagle 3:2, 4:19 name 4:17 nate 6:13, 6:14, 10:13, 10:14, 14:2, 14:8, 14:18, 18:6 nauseam 9:8, 9:10 nd 2:3 need 3:22 neither 20:7 never 5:14 next 13:8, 15:13, 17:7, 17:8, 17:21, 18:19 night 17:11 normally 13:18 note 9:6 nothing 18:3 notification 7:5, 7:10 notified 5:14</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>object 6:16, 7:2, 10:10, 10:14, 10:16, 10:21, 10:22, 12:2, 12:3 objection 6:10 obviously 14:11</p>	<p>occurring 2:21 okay 2:1, 3:5, 3:7, 3:19, 4:2, 4:14, 7:14, 8:15, 9:3, 9:10, 12:4, 13:12, 14:7, 14:18, 15:10, 16:5, 16:7, 17:17, 17:22, 18:2, 18:13, 18:15, 18:18 one 2:8, 2:18, 6:4, 6:8, 8:21, 10:3, 12:20, 13:16, 14:21, 18:7 only 7:20, 10:3 open 10:16, 10:22 opportunity 6:1, 8:5, 13:7 opposed 17:7 opposition 2:9, 7:19, 13:11 option 9:17 organization 16:1 other 6:8, 12:17, 17:19, 18:3 otherwise 20:9 out 17:6 outcome 20:9 over 9:8, 12:19 overrule 15:11 own 12:13</p>	<p>owner 5:5 owners 12:20</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>pages 1:21 park 2:10, 2:15, 2:20, 3:21, 7:6, 8:3, 10:11 parking 13:9 part 16:17 particular 11:10 parties 7:19, 17:19, 20:8 party 4:21, 15:22, 16:4 pending 11:9 people 3:18, 18:3 perhaps 12:6 period 11:20 person 15:15, 15:18, 15:19, 17:2 personally 16:3 persons 3:13, 7:19, 15:16, 16:12, 16:14 phonetic 2:2, 2:14, 5:1, 18:7 planet 20:15 planning 2:10, 2:13,</p>
---	---	--	--

Transcript of Hearing
 Conducted on February 22, 2023

2:15, 2:21, 3:21, 7:6, 8:3, 8:4, 8:20, 9:12, 9:16, 9:17, 10:2, 10:3, 10:11, 10:17, 11:2, 12:11, 13:9, 13:17, 14:11 pleasant 9:11 point 4:5, 12:1, 14:10 portions 15:1 possibly 6:21 post 7:8, 17:19 posted 2:8 prefer 15:20 prepared 14:9 prepares 9:15 present 18:3 presented 15:5 president 4:22 prince 5:4, 8:20 principal 8:19 prior 2:12 probably 13:22 problem 11:21 proceed 6:11, 8:17 proceedings 13:2, 13:3,	20:4 proper 12:5 properly 7:7, 7:8 property 2:17, 3:4, 5:5, 5:19, 5:20, 7:8, 12:21 proposed 11:20 provide 10:2 provided 8:4 purpose 11:1 put 8:8, 8:14, 12:14, 12:15, 13:4, 13:10, 16:11, 17:6 <hr/> <p style="text-align: center;">Q</p> <hr/> question 8:11, 13:16 questions 12:7, 12:13 quick 13:16, 14:8 quite 11:13 <hr/> <p style="text-align: center;">R</p> <hr/> rd 13:18 read 12:6 ready 8:17, 9:2, 18:19 real 7:9, 14:8 reason 7:9, 9:4 rebuttal 6:22 receive 5:14	recognize 9:8 recommendation 10:18, 11:2, 14:12, 15:4 record 3:13, 3:15, 4:21, 6:2, 6:14, 7:3, 7:18, 7:19, 8:14, 9:7, 10:14, 10:16, 10:22, 15:15, 15:19, 16:1, 16:4, 16:12, 16:14, 16:17, 17:2, 17:15, 20:3 recorded 1:11, 6:7, 20:4 recording 19:2, 20:6 records 7:6 related 20:7 reminds 6:5 reply 13:10, 16:22 report 8:6, 9:15, 9:16, 9:20, 11:6, 11:14, 13:20, 14:9, 14:14, 15:3 represent 15:17 representative 16:2 representatives 7:11 representing 18:17 represents 3:11, 3:17, 4:20 request 4:8, 5:10	requested 10:19, 11:3 requesting 9:18 resident 5:5 respond 3:17 review 6:20, 9:17, 13:8, 14:10 reviewed 5:16 revised 8:5, 13:20 revising 14:22, 15:4 revision 13:19 rezone 2:17 right 3:13, 4:4, 4:11, 6:18, 7:18, 7:20, 7:21, 8:16, 14:1, 14:17 rmf 2:19 role 9:13 rr 2:18 <hr/> <p style="text-align: center;">S</p> <hr/> said 4:18, 7:1, 20:4 say 16:10, 18:3 says 15:3 scope 7:3 sean 3:1, 3:6, 3:10, 4:11, 4:14, 4:18, 11:12, 13:13, 15:21,
---	--	--	--

Transcript of Hearing
 Conducted on February 22, 2023

<p>16:6, 16:8, 16:15, 17:22, 18:9, 18:21 second 2:18, 3:8, 6:5, 6:9, 8:21 see 4:1, 11:13, 11:21, 18:2 sell 12:21 send 17:5, 17:9 sent 2:20, 17:11 seven 13:18 short 11:20 should 2:16, 16:10 side 18:7 signature-plkal 20:12 signs 2:8 simply 13:9 since 8:4, 10:4, 13:6 slightly 12:15 some 6:22, 9:4, 9:22, 17:11 something 6:5 sometimes 6:7 sorry 18:11, 18:12 speak 6:18 speaker 17:10, 17:13, 18:10, 18:15 speaking 6:6</p>	<p>speed 3:9 staff 8:6, 9:15, 9:20, 10:17, 11:6, 11:14, 13:20, 14:9, 14:13 stan 7:16, 11:6, 13:16, 14:7 start 2:6, 12:19 starting 13:8 state 3:15 stated 4:18 statement 4:1 statements 5:2, 6:2 stay 16:13 still 14:12, 15:17 streaming 13:3 street 3:4, 5:22 strenuously 10:10 subject 3:4, 5:19 subjection 15:12 submit 3:22, 10:11, 10:17, 10:18, 17:1, 17:17 submitted 10:1 submitting 11:2 subsequent 8:7 suhar 2:22, 3:1, 3:6,</p>	<p>3:7, 3:10, 3:11, 3:15, 4:7, 4:9, 4:11, 4:14, 4:18, 6:10, 6:17, 7:17, 8:1, 8:15, 11:11, 11:12, 12:13, 12:19, 13:13, 15:14, 15:21, 16:6, 16:8, 16:15, 17:18, 17:22, 18:9, 18:21 suhar's 13:11 support 12:1 supporting 20:6 suppose 17:1 sure 3:10, 15:21 swear 13:1 system 13:5</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>take 4:9, 13:18, 18:4, 18:21 taken 3:14 takes 13:5, 16:2 taking 12:11, 15:3 talked 9:7 taper 16:4 technical 9:15, 9:20, 11:6, 11:14, 14:9, 14:13 testified 7:22, 8:10</p>	<p>testify 2:9, 7:12, 7:18, 7:20, 12:1 testimony 6:16, 6:22, 7:1, 12:14, 13:10, 16:18 th 9:19, 15:4 thank 3:6, 4:3, 4:11, 4:14, 5:22, 7:13, 7:14, 8:14, 8:18, 10:9, 14:7, 15:10, 16:15, 17:22, 18:17, 18:18, 18:20, 18:21 think 4:7, 11:16, 13:20, 13:21, 16:10 thomas 4:22, 6:17, 16:8 thought 12:8 through 12:16 time 3:22, 6:3, 9:11, 11:20, 12:2, 12:16, 17:1, 17:15, 18:8 today 2:3, 2:6, 3:9, 3:20, 4:5, 8:4, 18:19 today's 10:15, 10:21 tomorrow 10:6, 13:18, 14:4, 14:17 tradition 13:21 transcribed 1:22, 20:5</p>
--	---	--	---

Transcript of Hearing
Conducted on February 22, 2023

<p>transcriber 20:1</p> <p>transcript 13:4, 20:3</p> <p>transcriptionist 13:4</p> <p>transcripts 13:6</p> <p>treated 15:16</p> <p>true 20:3</p> <p>trust 5:11</p> <p>try 6:6</p> <p>two 18:4, 18:8</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>under 3:14</p> <p>understand 16:16</p> <p>unette 4:22</p> <p>unsure 7:4</p> <p>until 3:14, 8:7, 8:13, 10:22, 11:18, 11:19, 11:22, 14:1, 14:16, 15:12, 17:8</p> <p>updated 14:13, 17:20</p> <p>use 6:19</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>virtual 4:17</p> <p>voice 9:8</p> <p>vote 14:16</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 6:4, 6:8, 8:7,</p>	<p>8:13, 11:16, 11:18, 17:8</p> <p>waiting 11:22</p> <p>want 6:2, 6:8, 8:7, 8:13, 12:21, 13:1, 13:10, 15:18, 15:21, 16:20, 17:17, 18:14</p> <p>wanted 2:14, 12:12, 16:13</p> <p>wants 3:16, 16:21</p> <p>warner 3:21, 4:1, 4:3, 4:6, 4:8, 8:2, 8:17, 8:18, 8:19, 9:1, 9:4, 9:7, 9:9, 10:9, 13:17, 14:9, 14:15, 14:20, 15:2</p> <p>watch 13:2, 13:3</p> <p>way 16:13, 17:8</p> <p>we'll 16:22, 17:5, 17:19</p> <p>we're 3:2, 5:18, 11:15, 11:16, 15:6</p> <p>we've 10:3</p> <p>wednesday 1:12, 15:14, 17:7, 17:8, 17:21, 18:20</p> <p>weigh 4:9</p> <p>whatever 12:7, 18:15, 18:16</p> <p>whether 8:6, 8:12</p>	<p>willing 10:8</p> <p>wingate 3:3, 4:20, 5:4, 5:13, 5:15, 5:17, 5:19, 7:10, 7:16, 15:22</p> <p>without 15:8</p> <p>witness 2:14, 12:20</p> <p>witnesses 2:9, 7:22, 8:9, 8:14, 12:17, 13:7</p> <p>wouldn't 9:9, 13:22, 14:16</p> <p>writing 16:11, 16:20, 16:21</p> <p>wrote 12:7, 16:18</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 10:13, 13:13</p> <p>years 9:8</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zaller 3:2, 4:19</p> <p>zma 1:9, 5:8</p> <p>zone 2:17, 2:18, 2:19</p> <p>zoning 2:4, 3:18, 4:16, 9:14, 9:20, 14:6</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>001 1:9, 2:4, 5:8</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 17:10, 17:13,</p>	<p>18:10, 18:15</p> <p>15 9:19, 15:4</p> <p>1st 10:7, 10:16, 11:1, 11:19, 11:22, 12:10, 13:12, 13:21, 15:13, 16:19, 16:22</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>20 1:21</p> <p>2022 1:9, 2:4, 5:8</p> <p>2023 1:12, 2:3, 5:8, 20:16</p> <p>22 1:12, 2:3</p> <p>23 13:18</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>30 12:10, 15:13, 18:20</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>48 2:19</p> <p>482976 1:20</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8th 2:7, 5:8, 5:13, 9:21, 10:20</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 12:10, 15:13, 18:20</p>
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