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Transcript of Recorded Hearing

Case: SE-2022-005 Muirkirk Enterprises, LLC

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In re:

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SE-2022-005 MUIRKIRK ENTERPRISES, LLC.

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RECORDED HEARING

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20 Job No.: 518172

21 Pages: 1 - 84

22 Transcribed by: Lauren Bishop

1 MADAME EXAMINER: Okay, Mr. Ship. You're
2 your case still.

3 MR. SHIP: Thank you. As I said at the
4 outset we want to take Mr. Venancio out of order if
5 we could deal with his testimony regarding the
6 architecture and then I'll kind of come back with
7 more of an overview and get to Mr. Soltez. Mr.
8 Venancio is the architect of record on this project.
9 And Mr. Venacio, could you please state your name and
10 address for the record?

11 MADAME EXAMINER: Could you hold on just
12 one second? Let me swear him in. Sir, I need to swear
13 you in. I need to you to raise your right hand if you
14 could.

15 MR. SHIP: He's on mute.

16 MADAME EXAMINER: Yeah.

17 MR. VENACIO: Sorry. Yes. I am here.

18 MADAME EXAMINER: Okay. Thank you. Do you
19 solemnly swear or affirm under the penalties of
20 perjury that the responses you're giving and
21 statements being made will be the truth the whole
22 truth and nothing but the truth?

1 MR. VENACIO: Yes, I do.

2 MADAME EXAMINER: Thank you. Please state
3 your name and business address for the record.

4 MR. VENACIO: Yeah. My name is (Inaudible)
5 Venacio. I'm at 150 South Washington Street
6 (inaudible) Suite 300.

7 MADAME EXAMINER: Thank you. Mr. Ship?

8 MR. SHIP: Thank you, Madame Examiner. Mr.
9 Venacio, well, I want to start out by saying we have
10 submitted as a an exhibit, Mr. Venacio's CB. We are
11 not requesting that he be qualified as an expert, but
12 they did want you to know that that is in the record
13 for him.

14 MADAME EXAMINER: Okay. That is exhibit 31.

15 MR. SHIP: Thank you. Mr. Venacio, did
16 someone under your supervision or did you prepare the
17 architectural elevations and rendering submitted for
18 the subject applications?

19 MR. VENACIO: I did work on the elevations
20 myself.

21 MR. SHIP: Thank you. And have you reviewed
22 the technical staff report in the subject application

1 more specifically have you reviewed condition 1L?

2 MR. VENACIO: I did.

3 MR. SHIP: And condition 1L states that we
4 need to revise the architecture to conform the
5 section 271102 the Prince George's County zoning
6 ordinance. I want to walk you through that. First of
7 all, is it your sense of preparing the architectural
8 elevations that you have attempted to address those
9 requirements already?

10 MR. VENACIO: Yes.

11 MR. SHIP: And would it be helpful for you
12 if we pulled up the architectural renderings?

13 MR. VENACIO: Yeah. That would be okay.

14 MR. SHIP: Madame examiner, that is exhibit
15 31.

16 MADAME EXAMINER: All right. Fatima, can
17 you pull up exhibit 31 please?

18 FATIMA: Sure. Just give me one moment.

19 MADAME EXAMINER: Thank you.

20 FATIMA: No problem.

21 MR. SHIP: While we're doing that. I would
22 say that this set of architectural renderings is the

1 same set that is in the package that was forwarded by
2 the planning board in the slides but we want to make
3 sure it was accessible. So we submitted it as well,
4 but it's the same set. Okay. Thank you. So, Mr.
5 Venacio, section 61102 regards the industrial form
6 and design standards and subsection A2 deals with
7 multi-building developments, which is what this
8 project is. It has two buildings. And under B, beside
9 articulation, it requires that the building façade
10 shall be horizontally and or vertically articulated
11 to avoid long blank wall planes by meeting at least
12 two of the following standards.

13 One -- and I'm going to paraphrase. One is
14 the Wall playing horizontal articulation. Two is the
15 vertical articulation. Three is root line variation.
16 Can you discuss how you try to address those in at
17 least two of those in the renderings that you
18 prepared?

19 MR. VENACIO: Sure. We comply with two of
20 the three. Horizontal articulation, vertical
21 articulation on the façade. Partially comply with
22 also number three. On the vertical, we try to change

1 users change polars the use of texture and reveals to
2 provide articulation every 100 feet horizontally and
3 on the vertically we also used in the previous and
4 also different accent colors to provide vertical
5 articulation. Also referring to the corners --

6 MR. SHIP: Sorry. If I can interject. It
7 might be helpful Madame Examiner, if we advance this
8 slide. There's four slides in this to get to the
9 color elevations renderings. There's two renderings,
10 I think.

11 MADAME EXAMINER: Fatima, can you move to
12 the next slide here?

13 MR. SHIP: One more, please. There's the
14 first example if you want to speak to this water and
15 there's one more as well.

16 MR. VENACIO: So just yeah, I think yeah we
17 can we can work with this one here on the previous
18 one. So we have elevation. We provided elevation for
19 building one and building two and we are providing
20 tenant entrances at the corners. The tenants or the
21 entrance itself, they provide articulation on the
22 facade of the building in addition to the last that

1 we are having at the corners the use of canopy's on a
2 stalled front clasp the corners were also using foam
3 liners and reveals to create articulation on the
4 facade front and the side elevations of the this
5 building. Keep in mind that it's also possible that
6 in the future depending on the tenants of the
7 building, there is a possibility of more glass since
8 we are treating some of the panels in the front with
9 (inaudible) panels to possible, add glass depending
10 of the tenant needs for this building. But right now
11 we're providing enough articulation to comply with
12 the standards here.

13 MR. SHIP: Can we look at the next slide
14 please? So this is a similar view of the second
15 building.

16 MR. VENACIO: Yes. So basically you have
17 the change in elevation of the corners, vertical
18 articulation of the corners where we have the
19 storefront. We also have a canopy that projects out
20 of the facade. We also have a recessed on the
21 elevation after passing the corner and then we have
22 those variation in colors at the base of the building

1 and also top of the building.

2 MR. SHIP: Okay. And is it your opinion
3 that other than this discussion which we went through
4 that we have met with your elevations the
5 requirements of 61102 regarding the building design,
6 roofline variations, building facade materials,
7 location of loading areas and off street parking?

8 MR. VENACIO: Yes.

9 MR. SHIP: Okay. Madame Examiner, I don't
10 have any further questions for Mr. Venacio, except I
11 did want to say it as we mentioned this condition is
12 something we think we have met but the language of
13 the condition 1L says prior to certification. So
14 where he will have no problem discussing it with
15 staff to prove our point and obviously work towards
16 getting the elevations certified. So we have no
17 problem with the way the condition is worded. I
18 wanted to make that point.

19 MADAME EXAMINER: Okay. All right. Okay.
20 Thank you. Mr. Brown, do you have any questions?

21 MR. BROWN: Yes. Just a couple. Mr.
22 Venacio, the condition 1L does say prior to

1 certification to revise the architecture to conform
2 to the 27-61102, but you testified a moment ago that
3 you -- that is depending upon the needs of any future
4 tenant, have the ability to add additional glass
5 along the facades. Can you point me to where that is
6 possible with the architectural rendering that we
7 have on -- on the board now?

8 MR. VENACIO: Sure. If you see after
9 passing it -- I'm looking from -- from right to left
10 from -- from the corner. After passing the first
11 setback on the façade, there is a vertical band there
12 and then you can see perpendicular to that a great
13 base on the bottom.

14 MR. BROWN: Right.

15 MR. VENACIO: That is a nine foot high and
16 that area is already set up as a possible area to add
17 more glass to the façade. Required -- I mean, we --
18 we comply with the intent of the guidelines. That
19 would be an extra that we might get (inaudible) and
20 will require more glass in the front facade easily
21 set up to absorb that.

22 MR. BROWN: Okay. I don't know if any of

1 these conditions specifically address, you know that
2 alternative. I think it's a good alternative to be
3 able to add additional glass in those locations. So
4 we may need to tweak the architectural condition to
5 specify that that's an alternative that may occur in
6 the future. In addition tell me what are the
7 materials of the building exterior?

8 MR. VENACIO: Sure. So we have glass
9 obviously. We have metal canopies. We have concrete
10 which is still top construction. And then we have
11 this kill top concrete will be painted and then we're
12 going to have in the concrete, we're going to form
13 reveals and we're going to have Some kind of
14 horizontal elements to create texture on articulation
15 on the facade as well. If you go back to the
16 elevations that we were showing before we tag those
17 elevation with the different finishes that you will
18 see on this facade. We can go back if you want to do
19 that --

20 MADAME EXAMINER: The original slide here
21 or the one just before this? That one?

22 MR. VENACIO: Yeah. That one there. If you

1 assuming there is some text they're calling the
2 different on this facade, but basically that is still
3 top construction is concrete. It can be painted the
4 same type of material that we use on our class A
5 office buildings that we do all over and the quality
6 of the paint is last 20 years plus. That is very good
7 and it's a considered Class A finish.

8 MR. BROWN: All right. The staff identified
9 a neighborhood on page five and six of the staff
10 report and Mr. Dunn indicated that he's in agreement
11 with that neighborhood. When he testifies later, he
12 will confirm that. A special exception requires
13 compatibility with the neighborhood in terms of
14 architectural details. Is it your opinion that what
15 you proposed here today is compatible with the other
16 warehouse type uses in the neighborhood identified by
17 staff on pages five and six?

18 MR. VENACIO: Yes. I think the type of
19 uses that warehouse -- I'm sorry for the background
20 noise guys.

21 Most of the house you will see around us,
22 they are either filled with Precast or CMU with some

1 clubbing on it. So yes. This one of the many ways to
2 address where -- how construction overall. So --

3 MR. BROWN: All right. Thank you. No other
4 questions.

5 MADAME EXAMINER: All right. Do you have
6 any redirect, Mr. Ship?

7 MR. SHIP: No. Thank you.

8 MADAME EXAMINER: Okay. So, Mr. Ship, I had
9 the same concern that Mr. Brown had and he
10 articulated with regards to the testimony that they
11 might be changes to the architecture to the finishes,
12 to the windows. So it might behoove you because
13 you're stuck with this if I approve this plan to give
14 me language to give you a little latitude to make
15 certain architectural changes in the future.

16 MR. SHIP: I appreciate your comments and
17 Mr. Brown's comment on that. We will provide you with
18 language.

19 MADAME EXAMINER: Okay. All right. All
20 right. Mr. Venacio, thank you so much for testifying
21 here today and particularly under these
22 circumstances.

1 MR. VENACIO: I appreciate that. You guys
2 gave me the -- being flexible with me and I
3 appreciate it.

4 MADAME EXAMINER: Absolutely.

5 MR. VENACIO: Thank you so much.

6 MADAME EXAMINER: Absolutely. All right.
7 Let's see, Mr. Ship. Next up?

8 MR. SHIP: Yes, Madame Examiner, we are
9 going to do a general overview. And now I'm going to
10 ask Mr. Soltez to testify little bit.

11 MADAME EXAMINER: Okay, Fatima. You can
12 stop sharing the screen right now. There you go.

13 MR. SHIP: So I do want to say that this
14 application as we've already started to discuss
15 includes two proposed warehouse distribution
16 buildings in the IE zone. That is the new zone that
17 it was mapped over to it is this is an application
18 under the new coordinates. It is within an industrial
19 area and Mr. Dunn is going to get into this more and
20 I think even Mr. Soltez will discuss some of the
21 surrounding uses that respond to some of Mr. Brown's
22 questions, but it's an existing industrial area. It's

1 bounded by Canterra Drive and Worker (phonetic) Road,
2 but almost just as importantly by the ICC Highway. So
3 it's in an industrial corridor. It's been identified
4 as such in the master plan and the gender plan and we
5 are trying to propose a use that is allowed under the
6 zone of the with the requirement of this exemption.
7 What I would like to do is proceed through the
8 witness testimony, but say on the record at the
9 outset that we do agree with the staff reports
10 findings and conclusions and their recommended
11 conditions, with the exception of condition 1K which
12 we discussed was -- was modified by the memo of
13 November 1st, which was submitted in the record as
14 well. I believe that's item number six in your
15 package and that updates the findings and the
16 proposed condition. And the reason it is worded in
17 such a way that requires additional work is that we
18 have to go through a preliminary plan, which will
19 evaluate the access issue and it's kind of a high
20 bridge. We have to talk about it now because it's
21 like plan shows it but it's really going to be tested
22 and evaluated and Mr. Lenard will talk to that, some

1 developers conclude with some discussion on that as
2 well. But with that modification and whatever
3 additional modifications we've come up with through
4 this hearing for is it's the recommendation
5 (inaudible) made about materials, we will add, you
6 know, if you're so kind of leave the record open.

7 MADAME EXAMINER: Yeah. Absolutely. So what
8 you're telling me is with regard to the revised
9 condition 1K transmitted to be at the November first
10 memo from Park and planning UR in agreement with the
11 revised 1k?

12 MR. SHIP: We are.

13 MADAME EXAMINER: Okay. All right. Okay.
14 Thank you.

15 MR. SHIP: Thank you. But not to belabor it
16 but it is so important that we want to request that
17 the if we're so fortunate to get a favorable
18 recommendation that the commission condition be
19 revised from what's in the staff report to what is
20 shown in the memo. I know I'm saying the same thing
21 you just said, but it's kind of a critical point what
22 --

1 MADAME EXAMINER: Got it.

2 MR. SHIP: -- is and we talked to legal at
3 Park and planning about this issue and we think we've
4 got an opinion that we can work on this issue at for
5 the access at preliminary plan, but we don't want to
6 get into a box just as you said about with the
7 materials where they say, well, yeah, you're right
8 with your interpretation, but too bad your condition
9 on the special exception is an outright bar on
10 access. So I'm sorry to belabor that point, but it is
11 really the only critical point that we needed to try
12 to make.

13 MADAME EXAMINER: Okay. I got it.

14 MR. SHIP: Thank you.

15 MADAME EXAMINER: Revised 1K. Got it.

16 MR. SHIP: Thank you. With that, I'm ready
17 to call Mr. Soltez.

18 MADAME EXAMINER: All right. Mr. Soltez?

19 MR. SOLTEZ: Good morning, Madame Examiner.
20 Good morning, Mr. Brown. If I sound congested I have
21 a sinus infection has been raging. I'm on antibiotic
22 day three, so if I drink some water, it's just to

1 keep me from coughing. So, thank you.

2 MADAME EXAMINER: All right, Jim. I don't
3 see you. Sorry. I was looking right there. All right.
4 Okay. All right. Well, it's interesting seeing you in
5 this capacity. So I'm going to ask swear you in
6 please, sir. Thank you so much. I solemnly swear or
7 affirm under the penalties of perjury that the
8 responses given and statements made will be the
9 truth, the whole truth and nothing but the truth.

10 MR. SOLTEZ: I do.

11 MADAME EXAMINER: Thank you. Please state
12 your name and business address for the record.

13 MR. SOLTEZ: James Soltez. Our office is on
14 Force Boulevard here in (Inaudible), Maryland and I
15 am the President of Soltez Engineering but also here
16 Madame Examiner, here as the applicant.

17 MADAME EXAMINER: Thank you.

18 MR. SHIP: Okay. I wanted to just have Mr.
19 Soltez give some background on his -- his involvement
20 with the property and how we got to where we are.

21 MR. SOLTEZ: Okay. Thank you very much Mr.
22 Ship. So typically I am not the applicant. But in

1 this particular situation this property of was
2 acquired in a partnership for which I was a member.
3 It was actually for institutional user, which is
4 WSSC. They were looking at acquiring some properties
5 for their operations and entering into a swap. This
6 property actually was selected and then WSSC
7 cancelled the project. So having been involved in the
8 side of the commercial real estate development
9 residential crew (inaudible) county for 35 years,
10 (inaudible), I will proceed under the existing zoning
11 with a proposed distribution use. So having spent
12 this time and Madame Examiner and Mr. Brown in
13 various projects for which you've been involved, I
14 knew that at the get-go I better to go and pay a
15 visit to the district council members office and I
16 did that before anything was filed or any other plans
17 were drawn. And with that I reached out and
18 coordinated with staff and there were three specific
19 issues brought to my attention which they requested
20 my consideration, research and response. The first
21 request was I was provided a list of eight civic
22 associations around the area and before anything was

1 filed or drawn, we did a conceptual site plan. We met
2 with all eight groups and we took minutes of the
3 note, of the meetings and I reported back to the
4 council members office and we addressed any and all
5 the issues with the 8th Civic associations report
6 before it was filed.

7 Number two, goes to Mr. Brown's question.
8 And Madame Examiner, your question. I was told to
9 tour the Canterra business campus, which is right
10 across the street. And there was particular emphasis
11 by the council members office to look at the
12 treatment architecture that the corners new
13 buildings, which you saw in the previous rendering
14 which Ray went through. So those bump-outs, those
15 monumental entrance has mimicked what was built
16 across the street. So that was number two and we
17 modern architecture accordingly. The third one was we
18 were given the challenge of a significant above
19 standard environmental benefit coming out of the
20 property. And the issue was cast to us as doing
21 something above and beyond the standard and so we
22 went ahead and addressed these. Again, nothing was

1 filed but with our discussions with the local council
2 members office we want to be sure that there were no
3 issues before something was filed. So Mr. Dunn will
4 elaborate more on the Civic meetings. We did the
5 mandatory ones, but these were above and beyond the
6 for the eighth. Mr. Mill's will -- as our company
7 will also provide further detail on the environmental
8 enhancement. However, it was clearly stated that
9 there is downstream flooding issues as a civil
10 engineer has worked in Prince George's County for 35
11 years. We are well aware of that and the statement as
12 quote, urban flooding was something that the council
13 members office wanted us to address and so we -- Mr.
14 Mill's will get into the details of that. But the
15 desire was to create additional flood plane storage
16 on property and unfortunately when the state build
17 the Intercounty Connector, which is on the north side
18 of our site, they did not provide hundred-year flood
19 control off that property which is equal to keep
20 rising. And so therefore that was one of our goals
21 and then as Ray has testified, we did do the
22 architectural imaging of the Cantero site. Lastly,

1 before we filed anything, the council members office
2 asked us to provide them and it wasn't required but
3 they felt it was important in employment report and a
4 revenue report based on this type of use. And so we
5 reached out to Mr. Himmler who I have known for many,
6 many years. Obviously, he understands this very well.
7 So that was also added. And that is pretty much what
8 I wanted to convey to you Madame Examiner and Mr.
9 Brown.

10 MADAME EXAMINER: Okay. Any further
11 questions, Mr. Ship?

12 MR. SHIP: No. No further questions.

13 MADAME EXAMINER: Mr. Brown?

14 MR. BROWN: Yes. Good morning, Mr. Soltez.
15 How are you?

16 MR. SOLTEZ: Good, sir. Thank you.

17 MR. BROWN: Great. Just two or three quick
18 questions. The applicant is Mercury Enterprises, LLC.
19 Correct?

20 MR. SOLTEZ: Yes, sir.

21 MR. BROWN: And according to the file you
22 own 100%. Is that accurate?

1 MR. SOLTEZ: Yes, sir. It's also in some
2 trust to but yes, sir.

3 MR. BROWN: Well when you say in some
4 trusts, do the trust on more than 5%?

5 MR. SOLTEZ: The trust you are more than
6 5%.

7 MR. BROWN: Is it a publicly-traded trust
8 or private trust?

9 MR. SOLTEZ: It is just a private trust.
10 Family.

11 MR. BROWN: All right. I'm not trying to
12 get too personal but I'm just talking about the
13 ethics affidavit here, which requires that any entity
14 that owns 5% or more execute an ethics affidavit. Are
15 you the trustee for the trust?

16 MR. SOLTEZ: I am not the trustee for the
17 trust are two independent people.

18 MR. BROWN: And they are family members as
19 well?

20 MR. SOLTEZ: No. They are outside people.
21 One is in the accountant and one is a brother and
22 then there's a legal representative who I think

1 everybody knows. (Inaudible)

2 MR. BROWN: Mr. Ship would it be difficult
3 for you to have an ethics affidavit place in the file
4 by the trustee of the trust indicating that they have
5 applied with the ethics affidavit as well.

6 MALE SPEAKER 1: Yes. I think we were
7 looking at the entity itself but I understand your
8 line of questioning and Mr. Soltez has indicated we
9 will provide those affidavits.

10 MR. BROWN: Okay. Then in addition in
11 reviewing the file, I did not see an S Dat document
12 indicating that Mercury Enterprises, LLC is in good
13 standing. Is it?

14 MR. SOLTEZ: Yes, sir. It is.

15 MR. BROWN: All right. We need to have
16 placed in the file the good standing certificate from
17 State Department of Assessment and Taxation.

18 MALE SPEAKER 1: Yes, sir.

19 MR. BROWN: Other than that no other
20 questions.

21 MADAME EXAMINER: All right. I have no
22 further -- I have no questions, Mr. Soltez. Mr. Ship,

1 do you have any -- any follow-up questions?

2 MR. SHIP: I do not.

3 MADAME EXAMINER: All right, Mr. Soltez.
4 Pleasure to see you.

5 MR. SOLTEZ: Thank you, Madame Examiner.

6 MADAME EXAMINER: Okay. Mr. Ship, next --
7 next up.

8 MR. SHIP: Thank you, Madame Examiner, I
9 would like to now call Mr. Dunn to testify as the
10 land planner.

11 MADAME EXAMINER: All right, Mr. Dunn.
12 Thank you so much, sir. Do you solemnly swear or
13 affirm under the penalties of perjury that the
14 responses given and statements made will be the
15 truth, the whole truth and nothing but the truth?

16 MR. DUNN: Yes, I do.

17 MADAME EXAMINER: Thank you. Please state
18 your name and business address for the record.

19 MR. DUNN: Kenneth Dunn with Soltez at 4300
20 (inaudible) Boulevard in (inaudible), Maryland.

21 MADAME EXAMINER: All right. Thank you.
22 You've previously qualified as an expert in the field

1 of land planning and that qualification will continue
2 today.

3 MR. DUNN: Yes, ma'am. Thank you.

4 MR. SHIP: Thank you, Madame Examiner. For
5 the record, this CB is also submitted as item number
6 third.

7 MADAME EXAMINER: Correct.

8 MR. SHIP: Mr. Dunn, have you reviewed the
9 exhibits in this case including the applicant
10 statement of justification of the park and planning
11 technical staff report to the with the supplemental
12 memo and the PowerPoint presentation?

13 MR. DUNN: Yes, I have.

14 MR. SHIP: And did you prepare a land
15 planning analysis in connection with this case?

16 MR. DUNN: Yes, I have.

17 MR. SHIP: Is the testimony you will
18 provide today reflected in the land planning analysis
19 that is included in the record?

20 MR. DUNN: Yes, it is.

21 MADAME EXAMINER: Now what exhibit is it?

22 MR. SHIP: Let me -- let me back up. The

1 land planning analysis you did was made in connection
2 with the preparation of the site plan and the record
3 submitted with the planning staff.

4 MR. DUNN: Yes, I would say it's -- it's
5 spread out amongst all the various players that were
6 submitted the statements of justifications. All that
7 information is that is in large part based on my
8 analysis of the zoning code for the various documents
9 that pertain to this case.

10 MR. SHIP: So there's no separate land
11 planners plan and you've prepared for today?

12 MR. DUNN: No. That's -- that's -- that's
13 certainly true.

14 MR. SHIP: But for the purposes of this
15 special exception, can you please describe the
16 neighborhood of the subject property?

17 MADAME EXAMINER: I think I'm going to stop
18 you right there. Mr. Ship, the reason why I'm
19 requesting that Mr. Dunn provide his land planning
20 analysis is you have signed -- you, Mr. Ship, have
21 signed the statement of justification. So -- but
22 you're not a witness, and you've appended any number

1 of you know references to the code and you know how
2 their complied with. But again, you're not a witness.
3 So I really need Mr. Dunn to provide a -- his own
4 planning analysis if you could.

5 MR. SHIP: We will do that.

6 MADAME EXAMINER: Thank you. Thank you so
7 much.

8 MR. SHIP: Back to the description of the
9 neighborhood. So the staff has provided a description
10 and (inaudible) on page five -- four or five of their
11 of their technical staff report, in large part I can
12 agree with you, but what we can but based on some of
13 the conversations I've heard, it's certainly easy
14 enough to more fully describe the neighborhood here
15 and I can tell you that --

16 MADAME EXAMINER: I need you to slow down
17 and speak a little bit more distinctly.

18 MR. SHIP: If you could bring up exhibit --
19 it is I think five. Five of 19.

20 MADAME EXAMINER: So what exhibit number is
21 that?

22 MR. SHIP: Number five.

1 MADAME EXAMINER: The PowerPoint. Okay.

2 MR. SHIP: Specifically five of 19. That's
3 -- that -- that -- it's on my list as slide number
4 five, I believe. There we go. There we go. So in an
5 effort to more fully describe the neighborhood, we
6 can see that there are natural boundaries for the
7 site which identified in a red outline on this
8 particular exhibit. Those natural boundaries would be
9 to the north what's commonly referred to as the ICC,
10 Maryland Route 200. To the East I would tell you that
11 the natural boundary is US Route 1, which intersects
12 with the end of the ICC. To the South it would be
13 Amsdale Road and then to the West it would be I-95.
14 Now three of these roads are operated. The operating
15 agencies or state is our state agencies. So these are
16 significant barriers and form the natural boundary of
17 the neighborhood. Within the neighborhood we have two
18 significant types of site developments. Those would
19 tend to be the office flex industrial nature that are
20 generally located to the East and southeast of our
21 site. To the West we have what is industrial zoned
22 land and however it is -- it is yet to be developed.

1 Specifically the site itself again
2 identified in red on the exhibit is adjacent to both
3 vacant land and industrial sized values, very similar
4 to -- (inaudible).

5 MR. SHIP: And Mr. Dunn have you personally
6 visited the subject property and verified what you
7 just described from looking at this area?

8 MR. DUNN: Multiple times I have.

9 MR. SHIP: And have you reviewed the 2014
10 plan Prince George's 2035 approved General plan and
11 the 2010 approved master plan sectional map amendment
12 for region one with regard to the subject property?

13 MR. DUNN: I have an in specifically the
14 2010 approved master plan and (inaudible) map
15 amendment for subregion one does recommend this area
16 specifically this area for industrial land use making
17 a subject property application consistent with an
18 approved master plan for the area.

19 MADAME EXAMINER: Mr. Dunn, can I interrupt
20 you just one second? So your proposed neighborhood is
21 different than the technical staff. And technical
22 staff indicates that like you to the west is 200. To

1 the west is not 195. To the east is one. To the south
2 is Muirkirk and to the west are other zones -- other
3 IE zone property. So to the South and to the West you
4 differ from the technical staff report.

5 MR. DUNN: Right. ANd what I'm trying and -
6 - and I don't differ in the generalities of what
7 they're trying to convey. I was trying to provide
8 bigger context for what I feel is neighborhood
9 because of the representational nature of the
10 surrounding uses. If you use Muirkirk Road, which is
11 a substandard growth unimproved as a boundary, which
12 really not getting the full benefit of some of the
13 adjacent sites that we have used as guidance for
14 providing the architecture and similarities and the
15 use of (inaudible).

16 MADAME EXAMINER: Okay. So on this map, the
17 area that we have up, the area as you indicated that
18 is outlined in red is the proposed technical staff
19 neighborhood. The southern boundary is Muirkirk.
20 Where is Amendale?

21 MR. SHIP: Your cursor is on Amendale. And
22 I am using that as the southern boundary. The red

1 area is the subject application. Not necessarily --

2 MADAME EXAMINER: Okay. So where is the
3 neighborhood here?

4 MR. SHIP: Their neighborhood would be --

5 MADAME EXAMINER: It's not outlined.

6 MR. SHIP: Correct.

7 MADAME EXAMINER: All right. I don't have a
8 cursor showing.

9 MR. SHIP: I am sorry. I thought that was
10 your cursor. If you go to the boundary of the
11 property that's outlined in red, that intersection
12 where our property is -- I guess that's the South --
13 Southeast corner. It is the intersection of Muirkirk
14 and (inaudible).

15 MADAME EXAMINER: All right.

16 MR. SHIP: Mr. Dunn says Muirkirk is
17 substandard unimproved roads. That section of
18 Muirkirk if we could get it the cursor there, then
19 Mr. Dunn could describe. I don't know that they have
20 a cursor available. Somebody does. That's
21 (inaudible).

22 MADAME EXAMINER: Yeah. We can just share -

1 - we can just share the exhibit. We can't -- we can't
2 do for you, but I mean bill you also could share your
3 screen but you're not using a computer to share.
4 That's okay. So I got markers. So where is a
5 Amendale?

6 MR. SHIP: Amendale if you go south in
7 (inaudible) Road, it's about an inch South on this
8 exhibit.

9 MADAME EXAMINER: Okay. And it is the
10 developed thoroughfare going from -- let me get my
11 magnifier out. Going from -- I still can't read it.
12 Okay. Anyway, it's the major-- it's the development
13 to the south. Okay. Okay. So you've Mr. Dunn applied
14 in my mind appropriate planning standards for a
15 neighborhood. You have defined your neighborhood by
16 this case, vehicular boundaries. The staff report by
17 just saying properties that are zoned IE, it's not a
18 -- it's not an accepted planning standard. Okay. So
19 basically -- basically you're in the quadrant to --
20 on the left half of this slide, the road to the
21 North 200, the road to the east is route one is
22 further over. It's not the first road, right? It's a

1 second row to the right?

2 MR. DUNN: Correct.

3 MADAME EXAMINER: Okay. All right. So -- so
4 going down Route 1 then it connects with Amendale
5 provides the southern boundary of your neighborhood.
6 Amendale goes over and I'm assuming I know it doesn't
7 have an intersection but it approaches 195 and that's
8 your neighborhood. Correct?

9 MR. DUNN: Yes, ma'am.

10 MADAME EXAMINER: Okay. Right. So I
11 accepted that as the neighborhood. Okay. Thank you.
12 Thank you, Mr. Ship.

13 MR. SHIP: Madame Examiner, would it be
14 helpful if Mr. Dunn's report he does a specific map
15 for the neighborhood?

16 MADAME EXAMINER: That would be great
17 because his neighborhood is in accordance with
18 planning principles. I don't see that the technical
19 staff report is.

20 MR. SHIP: Thank you.

21 MADAME EXAMINER: Thank you. All right.

22 Sorry, Mr. Ship. Your witness still.

1 MR. SHIP: We were talking about the master
2 plan and it is follow-up question. Is there any
3 discussion with regard to the subject property in
4 either the master plan or the general plan?

5 MR. DUNN: There was and it specifically
6 within the 2010 approved master plan. There was
7 discussion about how the existing current residential
8 uses have been negatively affected by the
9 construction of a the ICC because there is no sound
10 barrier associated with that and that because they
11 have (inaudible) land or what was (inaudible) land.

12 MR. SHIP: So it recognizes the industrial
13 character?

14 MR. DUNN: That's correct.

15 MR. SHIP: And what is the proposed use
16 for this subjects site?

17 MR. DUNN: A distribution warehouse.

18 MR. SHIP: And is that a permitted use in
19 the ID -- IE Zone under the current coordinates under
20 Section 275101?

21 MR. DUNN: Warehouse distribution is
22 permitted in the IE Zone by special exception.

1 MR. SHIP: Are you familiar with the
2 requirements for set forth in the section 275400 at
3 set and the ordinance regarding the requirements or
4 special exceptions?

5 MR. DUNN: Yes, I am.

6 MR. SHIP: And did you review those as
7 summarized in the staff report as well?

8 MR. DUNN: I did.

9 MR. SHIP: And do you have an opinion as to
10 whether or not the site plan meets the General
11 requirements of section 27540 A through C pertaining
12 to setbacks, landscaping, buffering and screening?

13 MR. DUNN: I do in my opinion believe that
14 the special exception is presented meets those
15 requirements and findings.

16 MR. SHIP: Would it be helpful if we pulled
17 up another exhibit for you to look at regarding that?
18 Would you like the rendered site plan or --

19 MR. DUNN: The record site plan.

20 MR. SHIP: Would be the best exhibit. That
21 would be exhibit number 33.

22 MADAME EXAMINER: What am -- can you pull

1 up the exhibit 33?

2 MR. SHIP: So we have that out now Mr.
3 Dunn, does that illustrate your analysis and
4 conclusion about the setback buffering landscape and
5 screening requirements.

6 MR. DUNN: Yes. This plan demonstrates that
7 our layout beats all those positions requirement.

8 MR. SHIP: Okay. So special exception may
9 only be approved if the proposed use in the site
10 planner with the purposes of the subtitle. The
11 proposed uses conformance with all the applicable
12 requirements and regulations. The proposed use shall
13 be consistent with the general plan and the area
14 master plan or before functional master plan for the
15 subject property. The proposed use will not adversely
16 affect health, safety or welfare of residents or
17 workers. The proposed use will not be detrimental to
18 the use or development of adjacent properties and the
19 proposed use site plan is in conformance with an
20 approved TCP2 plan. Is it your opinion that this
21 proposal and site plan meet those criteria?

22 MR. DUNN: It's my opinion that our

1 application is planned and response to all of those
2 listed criteria and the metrics. The use is
3 appropriate for the zone. The plan is consistent with
4 the general plan, a master plan and the applicable
5 tree conservation planning for submitted along with
6 this document. It's not detrimental to the
7 development of property. I also see the staff respond
8 positively and agreed to that submission as well in
9 their staff report.

10 MR. SHIP: Did staff also say that the
11 proposed use did not negatively impact the health,
12 safety and welfare?

13 MR. DUNN: That's correct.

14 MR. SHIP: The ordinance also contains
15 certain restrictions regarding specific uses under
16 Section 275402. Are there any specific references to
17 warehouse distribution in that section?

18 MR. DUNN: In my review that portion of the
19 code found that there was no additional requirements
20 because this is a distribution warehouse under the
21 special instructor provisions.

22 MR. SHIP: In summary, is it your opinion

1 that the proposed you since site plan for warehouse
2 distribution is in harmony with the purposes of the
3 Prince George's County zoning ordinance, the purposes
4 of the IE Zone and the sub-region one master plan and
5 plan 2035 General plan?

6 MR. DUNN: Yes. In my opinion it is.

7 MR. SHIP: And is it also your opinion that
8 the proposed use is in conformance with all the
9 applicable requirements regulations of subtitle 27 of
10 the county code?

11 MR. DUNN: Yes. In my opinion it is and
12 including the recent addition to the code under CB40
13 2023 which added additional provisions to 27-4203
14 under footnote number six, which allowed for an
15 increase in the maximum lock beverage and reduction
16 of green area of there's an offset due to enhanced
17 stormwater management, flood control, solar or
18 geothermal power, offside treatment engagement or
19 similar environmental benefits.

20 MR. SHIP: Madame Examiner, I only have a
21 couple more questions, but I want to pause on that
22 point for a minute. Mr. Mill's is going to testify to

1 some of those enhancements. But I wanted to make sure
2 if the Examiner can take a notice of CB402023 or
3 whether you would like us to submit a copy as well
4 for the record.

5 MADAME EXAMINER: So I could take notice of
6 it, but I think just for the records purposes, it
7 would be good if he submitted a copy.

8 MR. SHIP: Okay. We will do that. And I
9 think as you will probably appreciate it, it's
10 important to have the bill itself because sometimes
11 it takes a while for the online code to update with
12 legislative revision. So I'm not sure if it is
13 reflected in the online code yet.

14 MADAME EXAMINER: Yeah. I'm not sure it is
15 either. The other reason for the bill of course would
16 be that sometimes there are uncountrified sections
17 that are contained in bills that are relevant to the
18 proceeding.

19 MR. SHIP: Very good. And I would say that
20 the purpose of CB40 was obviously to allow for some
21 adjustments that Mr. Mills will refer to but it
22 really only brings it in line with some of the other

1 industrial zones that already allow certain coverage
2 percentages in the IE Zone was submitted. There are a
3 number of things that we are all in countering with
4 the new ordinance and as you know, there was an
5 effort to do an (inaudible) -- omnibus bill, which is
6 probably still coming but this was a separate piece
7 of legislation just in terms of legislative history
8 on that.

9 MADAME EXAMINER: Okay. Thank you for that.

10 MR. SHIP: Okay. Mr. Dunn, in your opinion,
11 will the proposed you substantially impair the
12 integrity of the feet of the master plan for the
13 general plan?

14 MR. DUNN: No. It won't but in fact it will
15 propel the master planning expectations.

16 MR. SHIP: And again, will the proposed
17 uses personally affect the health, safety or welfare
18 of residents or workers in the area of the subject
19 property?

20 MR. DUNN: No, it will not.

21 MR. SHIP: In your opinion will the
22 proposed use be detrimental to the user development

1 of adjacent properties for properties within the
2 general neighborhood?

3 MR. DUNN: No. And again, I believe that
4 this use this is application will -- will put into
5 practice the second plan requirements.

6 MR. SHIP: And is that because it's
7 consistent with the recommended zoning and existing
8 uses growing in the neighborhood?

9 MR. DUNN: Correct.

10 MR. SHIP: Is the site plan of the subject
11 property informants with the tree conservation plan?

12 MR. DUNN: It is.

13 MR. SHIP: And does the site demonstrate
14 preservation and or restoration of regulated
15 environmental features in the natural state to the
16 fullest extent possible?

17 MR. DUNN: It does but I should expand on
18 that a little bit. When speaking about environmental
19 features, generally this references streams,
20 wetlands, floodplain in Prince George's County. In
21 this instance, given the documented detrimental
22 downstream flooding issues that our flooding expert

1 will speak on later, the ability to reduce downstream
2 live safety hazards to 100 year flooding by
3 compensating on the site is valuable. So in my
4 opinion, the environmental features on site have been
5 preserved the fullest extent practical and we have
6 addressed to the community.

7 MR. SHIP: Thank you. And is the subject
8 property located within the Chesapeake Bay critical
9 area?

10 MR. DUNN: It is not so that requirement
11 doesn't apply.

12 MR. SHIP: Right. And in your opinion, are
13 there any facts or circumstances that shows this
14 particular use proposal on the subject property
15 through this application at this particular location
16 proposed would have any adverse effect beyond those
17 inherently associated with the proposed use the
18 respective of its location within the item itself?

19 MR. DUNN: In my opinion there's no facts
20 or circumstances that this application would oppose
21 will have any adverse effects.

22 MR. SHIP: Is it your opinion that actually

1 given its location and the surrounding zoning that
2 it's actually a appropriate place for this use?

3 MR. DUNN: Given all the documentation, the
4 existing zoning, the use of you and gauge the size of
5 in the neighborhood, I think this is very appropriate
6 opportunity for development.

7 MR. SHIP: And do you agree with all the
8 conditions set forth in the technical staff report as
9 submitted by the planning board?

10 MR. DUNN: So I do agree with the
11 conditions but to be clear with the exception of
12 provision 1K as written. We would -- we would as
13 discussed previously the memo that describes the
14 condition that need to be most appropriate to replace
15 1K.

16 MR. SHIP: I have no further questions.

17 MADAME EXAMINER: All right. Mr. Brown?

18 MR. BROWN: Good morning, Mr. Dunn. How are
19 you?

20 MR. DUNN: Good morning, sir. How are you
21 today?

22 MR. BROWN: Doing well. Just two or three

1 very quick questions. The justification statement was
2 signed by Mr. Ship. Did you participate in the
3 preparation of that justification statement?

4 MR. DUNN: I did.

5 MR. BROWN: And do you adopt and
6 incorporate the contents of the statement of
7 justification as part of your testimony?

8 MR. DUNN: I do.

9 MR. BROWN: With regards to adverse
10 impacts, you've testified the special exception if
11 approved would not have any adverse impacts on other
12 properties in the neighborhood. Correct?

13 MR. DUNN: Correct.

14 MR. BROWN: And I want to look at the
15 reverse of that. Looking at the exhibit in front of
16 us, there appears to be -- I don't know if it's
17 floodplain area but stormwater management provision.
18 Can you explain how the layout of this particular
19 site plan actually benefits other properties in the
20 neighborhood as it relates to stormwater management?

21 MR. DUNN: I will do so but I will -- I
22 will preface it by saying that we have an expert that

1 is here today to testify exactly to that issue.
2 However, just in generalities, we were initially
3 warned by not only multiple agencies, but the local
4 council member of the -- for the site that they would
5 very much appreciate us tackling some of the
6 downstream flooding issues that have been documented
7 previously and we did so by providing not only the
8 standard stormwater management, but what we consider
9 additional flood control in the location between the
10 two buildings.

11 MR. BROWN: All right. I'll wait for the
12 experts to expand upon that. The last question
13 relates to the condition 1K and the issue about
14 access on Canterra Drive, which I don't have any
15 objection to, but I want you to explain for us for
16 the record from a planning standpoint why there is a
17 need for access to the site from Canterra Drive.

18 MR. DUNN: Thank you. So again, I will do
19 so again carry out that we have another expert on --
20 on -- on board transportation expert that is
21 available to answer that question as well. From our
22 perspective -- from the perspective of the applicant

1 and the ultimate user, the type of access that is
2 provided both by Canterra and what will ultimately be
3 an approved Muirkirk Road is necessary so that we
4 have the appropriate circulation for the vehicles,
5 turning radius and trucks to be able to back into the
6 buildings as you as you normally expect to see these
7 types of uses provide. And also some separation for -
8 - for the trucks from -- from other vehicles.

9 MR. BROWN: All right. I'll wait for the
10 experts will but thank you for that. No other
11 questions. Thank you.

12 MADAME EXAMINER: All right. I have no
13 further questions, Mr. Dunn. Mr. Ship, do you have
14 any further questions?

15 MR. SHIP: A couple redirects. We've had
16 some discussion today already about the efforts to do
17 environmental site design to improve some of the
18 downstream issues that were created not by the site.
19 I want make it clear by asking you, it's not our
20 intention that we're solving all of the problems for
21 this region, but we're making it in an incremental
22 improvement.

1 MR. DUNN: We're taking advantage of the
2 opportunity we have here to make incremental
3 improvements to downstream flooding conditions. We --
4 this property alone can't fix everything but it can
5 contribute to the solution.

6 MR. SHIP: Okay. I wanted to make sure the
7 Examiner didn't have a misunderstanding that we're
8 solving all problems of the sub-regions.

9 MADAME EXAMINER: I understand.

10 MR. SHIP: The second point regarding Mr.
11 Brown's questions about the access and we can get
12 that with some of the experts, but from a planning
13 standpoint, is it your understanding -- just to
14 clarify what the said, that the primary use of the
15 proposed access of a Canterra Drive is the serve
16 employee vehicle parking whereas the primary use of
17 the Muirkirk, would be the main, sole truck access.

18 MR. DUNN: Yeah. That is the intent. The
19 intent is that -- that assist in the separation of
20 the two types of traffic.

21 MR. SHIP: I have no further questions.

22 MADAME EXAMINER: All right. Thank you very

1 much. Your next witness?

2 MR. SHIP: Thank you. The -- I -- the
3 reason I'm pausing is that I will want to make some
4 legal comments about legal analysis of this access
5 provision and I could do that now or I could do that
6 at the end and I'm thinking since Mr. Brown directed
7 us to it that it might be helpful for me to make a
8 little background on this evolution of the condition
9 for 1K to the memo of November 1st, if I could do
10 that for this one minute?

11 MADAME EXAMINER: Absolutely.

12 MR. SHIP: Thank you. The provision is in
13 section 276206 for the standards and substandard
14 addresses vehicular access management. And it says
15 it's a limitation on direct access along arterial --
16 arterial and collector streets. And what it says is
17 that proposed direct access to a development
18 principle origin or destination points including
19 individual boxes subject you may be provided directly
20 from an arterial or collector street only if no
21 alternative direct vehicular access from a lower
22 classified access way is available. And the evolution

1 of discussion with staff was initially they said well
2 that condition at standards said you can't have
3 access off of Canterra drive when you have available
4 access off of Muirkirk, which is a lesser classified
5 road. That part is true. But what we worked with is
6 looking at the code provision and talk to legal about
7 was that it says the proposed direct driveway access
8 to a developments principle origin or destination
9 points. And in this case, the principal origin and
10 destination points for the use of this development is
11 the truck traffic surveying the property in and out.
12 And that access is restricted to the lesser
13 classified road of Muirkirk. And going back and
14 looking at this, it was agreed with legal that in
15 drafting the ordinance, if they just wanted to
16 prohibit outright access off of a road like Canterra,
17 when you have a road like a lesser Muirkirk in this
18 case, they would not have bothered with the language
19 that said the developments principal origin or
20 destination points. It has to mean something or else
21 they would have just prohibited it outright. And the
22 principal destination point for a warehouse

1 distribution facility is the truck bays, the loading
2 bays in the back and that's what served off of
3 Muirkirk. Now that's what evolved into the memo
4 coming out recognizing that there could be a
5 scenario. They didn't want to, without seeing a
6 preliminary plan and having an APF analysis, which
7 you'll hear about from our traffic expert, they
8 didn't want to just say oh we agreed change the
9 condition. They want us to look at it more closely at
10 the preliminary plan and justify it to them from a
11 traffic analysis sticking point. But what we want to
12 make sure is that we're not including an outright bar
13 at this level so that we can make our case with them.
14 So that's the summary.

15 MADAME EXAMINER: Okay.

16 MR. SHIP: Okay. Our next witness is our
17 environmental site design engineer, Jason Mills.

18 MADAME EXAMINER: Thank you. All right, Mr.
19 Mills. I need to swear you in, please. Thank you so
20 much. I solemnly swear or affirm under the penalties
21 of perjury that the responses given and statements
22 made can be the truth, the whole truth and nothing

1 but the truth.

2 MR. MILLS: I do.

3 MADAME EXAMINER: Thank you. Please state
4 your name and business address for the record.

5 MR. MILLS: My name is Jason Mills. My
6 business is Soltez. And my address is 4300 Forbes
7 Boulevard, Lanham, Maryland.

8 MADAME EXAMINER: All right. And Mr. Ship
9 is going to tell me that your CV is exhibit 29.

10 MR. SHIP: Absolutely. And I would -- thank
11 you, Madame Examiner. I would point out that Mr.
12 Mills is a professional engineer in a lead AP, which
13 is that the green building standard that's on his CB
14 and I would point your attention to one of his
15 featured projects that he worked on that stormwater
16 management listed in this CB which was a ten million
17 dollar project partnership with the county. They were
18 sold test with the hired consultants to do an overall
19 stormwater management environmental that analysis for
20 a flooding area within the county. I know that we are
21 not going to see to certifying this an expert, but I
22 want to make sure his background is clear in the

1 record. The -- you stated your name and address, but
2 we're going to skip down ask the expert here and say
3 are you familiar with the subject property and its
4 physical characteristics?

5 MR. MILLS: I am.

6 MR. SHIP: And would it be helpful for your
7 testimony for us to bring up the colored rendering or
8 the site plan?

9 MR. MILLS: It would be helpful for
10 stormwater concept, which is number 7 of the list.

11 FEMALE SPEAKER 1: Did you hear that?

12 MADAME EXAMINER: What exhibit is it? I'm
13 sorry.

14 FEMALE SPEAKER 1: Exhibit 7.

15 MR. SHIP: (Inaudible) Can you just go to
16 site the rendered site manager site? Technical site.
17 I am sorry Madame Examiner, I think (Inaudible) would
18 be a better exhibit to look at. Okay. Are you
19 familiar with the Prince George's County zoning
20 ordinance regulations as it pertains to regulations
21 requirements for project site design storm water
22 management and flood control in the IPS?

1 MR. MILLS: Yes.

2 MR. SHIP: Specifically I'd like to direct
3 your attention section 274203E the zoning ordinance
4 which provides regulations for density and intensity
5 of the IE Zone. Are you familiar with those
6 Provisions?

7 MR. MILLS: Yes. Section 274203E sets for
8 standards for the design criteria such as a lot
9 coverage and green area minimums in the IE zone.

10 MR. SHIP: And what is the lock coverage
11 permits and green area minimum for locks in the IE
12 zone?

13 MR. MILLS: 65 percent for lot coverage.
14 30% for green area coverage.

15 MR. SHIP: And can you tell us the lot
16 coverage and green area hosts for the subject site
17 plan.

18 MR. MILLS: I can. I'm going to break it
19 down and do the two parcels. Parcel one is 70.7 for
20 lot coverage. Parcel two is 72.5 for lot coverage.
21 Parcel one is 27.5 per green area minimum and parcel
22 to is 29.3 for the green area minimum.

1 MR. SHIP: Okay. So obviously those differ
2 from the requirements set out in the table that we
3 referred to but as we mentioned before with Mr.
4 Dunn's testimony, there was a council Bill CB402023
5 that created a footnote six that provides for
6 increases in the maximum amount of coverage and
7 decreases in the green area of minimum. That bill
8 footnote six says when approving a special exception
9 or detailed site plan that this decision making body
10 or official may increase the maximum lot coverage to
11 no more than eighty percent. It may reduce the
12 minimum green area to not less than 20% upon a
13 showing by the applicant that the proposed maximum
14 lot coverage and minimum green area are reasonably
15 necessary for the proposed use are compatible with
16 adjacent properties in neighborhood and that the
17 increased in the maximum lot coverage will be offset
18 by enhanced stormwater management, flood control or
19 other use of solar or geothermal power, off-site tree
20 medication for similar environmental factors. No
21 bearing for the requirements of this subsection shall
22 be permitted. So I want -- obviously, we are relying

1 on this plan to get to those modified percentages
2 under footnote six and as you described the
3 percentages of the existing site plan, they comply
4 with the modified standards under footnote six?

5 MR. MILLS: They do. What we did under this
6 section when we provided enhanced 100-year control.
7 We limited the flow from the site by approximately
8 147 CFS which resulted in an additional 17 percent
9 reduction over what was required. So in essence in
10 the green area that is shown on the rendering here,
11 we are removing soil, providing storage and allowing
12 for greater floodplain use in that area.

13 MR. SHIP: So in my justification
14 statement, I noticed it asked us to address that
15 justification. It's in the statement of justification
16 itself and added but as the examiner points out on
17 own witness, did you happen to have conversations
18 with staff about your proposed enhancements and how
19 you were addressing and what was their initial
20 reaction. And what was the reaction after you
21 explained the concepts?

22 MR. MILLS: Great question. Initially when

1 they saw the impact within the (inaudible) anyone to
2 understand why we were proposing these impacts and
3 what our goals here were. So our first goal was to
4 reduce runoff down south of -- south of this. So as
5 you work your way down to Route 1 reduction in the
6 amount of flow in 100-year condition. The other thing
7 is to look at the stream that exists there today and
8 determine if the stream is of a quality of the stream
9 and how it might function best in the proposed
10 condition. What we had proposed was to use by
11 removing the soil. We also added submerged gravel
12 wetlands which help to provide cool water and clean
13 water to the stream. It also allows us to double
14 using so we get the floodplain abatement and we get
15 the use of cleaning the water. After looking at it,
16 working it through closely with staff and noting that
17 the area was not a forested wetland, which is not
18 common in this area, staff agreed with our assumption
19 with some minor tweaks to make sure we had room for
20 maintenance and things like that, which as we evolved
21 from a concept to a final plan we were able to
22 accomplish.

1 MADAME EXAMINER: Mr. Mill's when you
2 talked about the subterraneous drainage, is that the
3 area that is under the two parking areas internal to
4 the site? Is that what this little dots mean?

5 MR. MILLS: So the light green It is
6 adjacent to Muirkirk Road is the first submerged
7 wetland.

8 MADAME EXAMINER: Okay.

9 MR. MILLS: The green that's like kind of a
10 long shoot that goes along the other area of the
11 submerged wetland.

12 MADAME EXAMINER: Okay. So then what are
13 the dots on the parking internal to the site?

14 MR. MILLS: Pavement, asphalt pavement in
15 this case for where the trucks will drive and then
16 the light green that is in the corner is a submerged
17 wetlands adjacent to it.

18 MADAME EXAMINER: Okay. I don't understand
19 your answer with regards to asphalt because there are
20 other areas on the property, some of which are
21 parking some of which are dry, that don't carry those
22 little dots. Are they not asphalt?

1 MR. SHIP: Well, let me ask Mr. Mill's to
2 get closer so you can see. I see Madame Examiner what
3 you're pointing to is that some of the parking areas
4 --

5 MR. MILLS: Sorry. I couldn't see the dots
6 from back here.

7 MR. SHIP: Okay.

8 MR. MILLS: So the dots that you see on the
9 screen represent a heavy-duty pavement for where
10 trucks will pull out. The area without dots is more
11 the car parking, which doesn't --

12 MADAME EXAMINER: Okay. Thank you. I got
13 that. Okay. Thank you.

14 MR. SHIP: So Mr. Mills, back to you
15 discussion (inaudible). First of all, do you have a
16 recollection of what departments -- what disciplines
17 was an environmental planning or (inaudible) or who
18 was involved in your conversations?

19 MR. MILLS: So environmental planning was
20 involved with --

21 MR. SHIP: Park and Planning.

22 MR. MILLS: --with Park and planning and

1 DPI any as well as a third-party reviewer of the plan
2 were all involved very closely to walk through this
3 process and make sure that we are achieving our
4 required goals and numbers.

5 MR. SHIP: And they were satisfied after
6 your explanation.

7 MR. MILLS: They were satisfied after
8 exclamation in the staff report reflects status.

9 MR. SHIP: I believe that's right in
10 discussions on page 7 and 8 of the staff report. Now
11 Madame Examiner, I do not have any other further
12 questions.

13 MADAME EXAMINER: All right. Mr. Brown, do
14 you any questions of Mr. Mills?

15 MR. BROWN: I do not. Thank you.

16 MADAME EXAMINER: All right. Well, Mr.
17 Mills, thank you so much for participating here
18 today. Mr. Ship, your next witness.

19 MR. SHIP: Thank you. We would like to move
20 on to our traffic engineer, Mr. Mike Lenhart.

21 MADAME EXAMINER: Okay. You can take this
22 down. Thank you. Mr. Lenhart, there you go. All

1 right. I need to swear you in, sir. I solemnly swear
2 or affirm under the penalties of perjury that the
3 responses given and statements made shall be the
4 truth, the whole truth and nothing but the truth?

5 MR. LENHART: I do.

6 MADAME EXAMINER: Thank you. Please state
7 your name and business address for the record.

8 MR. LENHART: Michael Lenhart with Lenhart
9 Traffic Consulting. 645 Baltimore Annapolis Boulevard
10 Suite 214. Sprinter Park, Maryland. 21146.

11 MADAME EXAMINER: Thank you. You have
12 previously qualified as an expert in the field of
13 transportation and you will continue in that
14 qualification here today.

15 MR. LENHART: Thank you.

16 MR. SHIP: Thank you, Madame Examiner. His
17 CB is item number 27.

18 MADAME EXAMINER: Thank you.

19 MR. SHIP: Mr. Lenhart, are you familiar
20 with the subject property in the surrounding area?

21 MR. LENHART: Yes, I am.

22 MR. SHIP: Section 3604E1 8 through G of

1 the order set forth for specific requirements or
2 special exception, we discussed them with other
3 witnesses from a planning standpoint, but subsection
4 E and F require that the proposed use will not
5 adversely affect the health, safety or welfare
6 residents or workers can approve the proposed use
7 will not be detrimental to the use of development of
8 adjacent properties. From a transportation and
9 traffic standpoint, do you have an expert opinion
10 about whether the proposed use of the property will
11 comply with those requirements?

12 MR. LENHART: Yes. The -- the use would
13 come -- would comply with those requirements and more
14 specifically the proposed used at this location will
15 not adversely impact health, safety or welfare of
16 residents or workers and will not -- not be
17 detrimental to be used for adjacent properties. The
18 site is ideally located for the proposed use as
19 previously testified with this distribution warehouse
20 located along Canterra Drive and adjacent to the ICC
21 Maryland 200. The intersection of Canterra Drive
22 Muirkirk Road as well as the ramp intersections to

1 the ICC Maryland 200 at Canterra Drive are all
2 signalized which provides for safe and orderly
3 traffic flows. Furthermore, this use, as proposed, at
4 this location in the IE zone will not have an adverse
5 impact is compared to other IE zones located
6 throughout the county given that this site is located
7 directly adjacent to Maryland 200 and as testified
8 which provides quick and easy access to the freeway
9 and interstate network, which is also minimizes
10 impact to the local county roads.

11 MR. SHIP: So Mr. Lenhart, is it your
12 testimony, your opinion that not only is this site in
13 the proposed use not adverse to the public health,
14 safety, welfare or use of other properties that in
15 fact it's a better locate and any other locations?

16 MR. LENHART: Yes. As stated because of the
17 location adjacent to Maryland 200, it gives it almost
18 direct access to the freeway and interstate network
19 system.

20 MR. SHIP: Thank you. And I consider this
21 kind of the high level view of the transportation
22 network and location of this site in forming your

1 opinion on that. Will there be a specific or further
2 study of transportation and traffic impacts for this
3 project?

4 MR. LENHART: Yes. At the time of
5 preliminary plan of subdivision, we will be required
6 to conduct Transportation Adequacy Analysis.

7 MR. SHIP: And are you familiar with the
8 technical staff report for this special exception and
9 its recommendations that pertain to transportation
10 and traffic?

11 MR. LENHART: Yes.

12 MR. SHIP: Are you in agreement with those
13 conditions?

14 MR. LENHART: Yes with the exception of
15 condition 1K as originally drafted in the staff
16 report which restricted access to Canterra.

17 MR. SHIP: Some of this because we hit it
18 heavy already but obviously there's questions, we'll
19 get more information on that but I did want to ask
20 you in preparing for this discussion about the access
21 of the Canterra and working towards the next
22 application which would be the preliminary plan of

1 subdivision, have you coordinated with staff how to
2 work with your scoping and analysis to address that
3 issue?

4 MR. LENHART: Yes. We have completed the
5 scoping agreement with staff. They have requested
6 that we evaluate site with and without access to
7 Canterra Drive so we can continue to work with them
8 based on revised condition previously tested by --
9 testified by others. That revision of 1K will allow
10 us to continue to work with staff to a resolution on
11 the approval of that access point. Yes.

12 MR. SHIP: It's then with the revision
13 proposed by staff of both the findings, conclusions
14 and revision of the condition 1K in the memo dated
15 November 1st, which we've discussed here already and
16 transmitted by the planning board, is it your expert
17 opinion based on your analysis and your review of the
18 staff report and referrals including the November
19 first memo that the -- the planning board's admission
20 of the record and all testimony in this case that the
21 special exception meets the requirements for approval
22 is special exception for the proposed warehouse

1 distribution use from a transportation and traffic
2 standpoint?

3 MR. LENHART: Yes. I agree with that.

4 MR. SHIP: And as you stated before it will
5 be looked at in much more detail at the time?

6 MR. LENHART: That's correct.

7 MR. SHIP: Madame Examiner, I have no
8 further questions.

9 MADAME EXAMINER: All right. Thank you. Mr.
10 Brown?

11 MR. BROWN: Good morning, Mr. Lenahrt.

12 MR. LENHART: Good morning, Mr. Brown.

13 MR. BROWN: We've got to focus on this
14 condition 1K again. As indicated. I don't have a
15 problem with what you guys are trying to do to have
16 the additional access for employee vehicles on
17 Canterra Drive but the wording of the condition just
18 sort of causes heartburn from this standpoint.

19 27-6206D is the actual section that we are
20 looking at. Correct?

21 MR. LENHART: Yes, correct. Yes.

22 MR. BROWN: So Mr. Ship, if the Examiner

1 decides to go along with revised condition 1K, I
2 think we ought to have the parenthetical D in there
3 as opposed to just 27-6206. It ought to be 27-6206
4 parenthetical D.

5 MR. SHIP: And I think it's limited to D.
6 There's D1 with an A, B and C under that D1.

7 MR. LENHART: Right. A, B and C. I think we
8 need to specify all of those parentheticals in the
9 condition.

10 MR. SHIP: I agree. And Madame Examiner
11 since we are submitting some things in the record
12 after this hearing closes, I'd be glad to work with
13 Mr. Brown.

14 MR. BROWN: Yeah. We can just add those
15 parentheticals. Now then the other issue I have is,
16 learning subdivision of course deals with subdivision
17 and traffic and of course access points, but 27-606
18 is a zoning issue as well as a preliminary plan
19 subdivision issue. And so -- excuse me?

20 MR. SHIP: It's 206.

21 MR. BROWN: I am sorry. 6206. And so the
22 issue is the Examiner has to make a determination now

1 as part of the special exception that 27-60 -- 6206
2 and the parentheticals have been complied with or
3 not. And then the planning board would also make a
4 determination. And so Mr. Ship -- and I ask you this
5 because I'm trying to have you guys not put in a
6 position -- be put in a position where you one have
7 to comply with preliminary subdivision, but the
8 special exception that let's say for the sake of
9 discussion is approved and the Examiner really has
10 not approved 27-60 -- 6206. You understand what I'm
11 saying?

12 MR. SHIP: I believe so. Again, I'd be
13 happy to work with you on wording. But I'm thinking
14 something more like a finding that says that 27-6206
15 D1A does not prohibit the access points off of
16 Canterra provided the requirements of the zoning
17 ordinance language regarding the direct use for the
18 principle origin or destination points are satisfied
19 and further evaluated equipment and claimed that the
20 very wordy off -- off the top of my head effort. But
21 --

22 MR. BROWN: Yeah. I believe we can tweak it

1 because I think the Examiner has to make a finding
2 now that 27-6206 parenthetical has been complied
3 with. And at the time of preliminary plan, they also
4 would have to make a finding as it relates to
5 subdivision and traffic. So again, it's not an
6 impediment now, but we can fine-tune that 1K so that
7 it allows you to the alternative to go before the
8 planning board on the preliminary plan to subject.

9 MR. SHIP: I appreciate that line of
10 discussion because it's very important as you know,
11 and I'm sure we can get it right.

12 MR. BROWN: And then the other issue I have
13 Mr. Lenahrt, and I haven't read every single page of
14 this new ordinance. So forgive me. But for the old
15 ordinance, you know, it defined what a driveway is or
16 was. And a driveway would not normally be what you
17 guys have proposed to access Canterra Drive under the
18 old ordinance. Do you know whether there is a
19 definition section in the new ordinance? I didn't see
20 one. I'm sure there must be somewhere.

21 MR. SHIP: Well, let's maybe I should
22 address that (inaudible).

1 MR. LENHART: Off the top of my head, I --
2 I don't.

3 MR. BROWN: All right. That is fine. Mr.
4 Ship, go ahead.

5 MR. SHIP: Yeah. Mr. Brown, I mean, this is
6 -- you're getting into the crest of the conversation
7 we've had with staff and legal all the way through is
8 that some of this stuff in the new ordinance is not
9 fully defined and so you run into a lot of cases of
10 first impression, but I see what you're saying, which
11 is the driveway is more like a driveway, and that's
12 why when you look at my initial response to the
13 standards in discussion of that, we discuss it in
14 terms of an existing curb cut that was put in there
15 frankly when the ICC was built with the cooperation
16 and coordination with the prior owners of the one
17 thing the prior owners wanted was an assurance of a
18 curb cut there and it's installed exist to commercial
19 standards and we did try to argue. It's really not --
20 it's an entrance. It's not a whole driveway. But they
21 weren't there yet. Obviously, if you endure the
22 Examiner wanted to make a finding in that direction,

1 that would be helpful. But since this was language
2 and it come out from the planning board in their
3 referral, we really didn't have much time to work any
4 further onto the updated November 1st memo. So I
5 appreciate where you're going to maybe we need to
6 clarify that and we are -- we are totally on board
7 with the analysis that this should not be a truck
8 engine. But beyond that we think we meet the
9 requirements of this because it doesn't prohibit any
10 driveway or access point. It is certain kind.

11 MR. BROWN: Yeah. I mean just looking at
12 the condition. I mean under the old ordinance. This
13 is not a driveway at all. So the condition would not
14 apply. And then in addition as you indicated
15 undefined term such as principal origin or
16 destination points, I have no idea what that is.

17 MR. LENHART: Right.

18 MR. BROWN: You know that just makes no
19 sense.

20 MR. SHIP: Defined under either the new
21 ordinance or the older form.

22 MR. BROWN: Or the old. Correct.

1 MR. SHIP: I am sorry. I would interject.
2 That's where I would say before and speaking with
3 legal for Planning Commission, he agreed it has to
4 mean something. If they wanted the outright prohibit
5 access, they would have just done that. Now, maybe
6 we're being -- we're assuming they would have been
7 this tight. But you having that phrase in there has
8 to mean something. So it doesn't totally give it
9 access and we think with our design we meet the
10 intent of it and from a practical standpoint I think
11 what it's really trying to get at is you don't want
12 the main activity of an industrial building coming on
13 and off of an arterial where you have another option
14 and that's why we put our truck entrance off of
15 Muirkirk to begin with. So -- and in the second
16 building is totally off it. So I think we meet the
17 practical realistic purpose of that requirement. I'm
18 happy to work with you further, Mr. Brown and coming
19 up with some language that is to all of that.

20 MR. BROWN: All right. I think we all
21 understand the issue. I have no additional questions
22 of Mr. Lenhart.

1 MADAME EXAMINER: All right. Thank you. Mr.
2 Lenhart, just one thing. So this -- this particular
3 segment of Muirkirk is just a gravel road at this
4 point? An unimproved gravel road?

5 MR. LENHART: But it's improved for a short
6 distance. Off the top of my head, I'm just looking
7 back to see how far that goes. Yeah. It's not
8 improved to back toward the second building. And so
9 that would that would have to be improved but we're
10 actually proposing to improve the entire frontage of
11 Muirkirk with widening consistent with major
12 collector, which is the what is called for the master
13 plan.

14 MADAME EXAMINER: Okay.

15 MR. SHIP: We would be required to frontage
16 improvements along (inaudible) Muirkirk.

17 MR. LENHART: Right.

18 MADAME EXAMINER: Okay. So, Mr. Lenahrt,
19 the -- there is a portion of Muirkirk along this
20 segment that is approved -- excuse me. Is improved up
21 to the existing curb cut. Is that correct?

22 MR. LENHART: It's back -- basically back

1 through the first building or close to through the
2 first building. The second building is -- is not.
3 Approximately.

4 MADAME EXAMINER: Okay.

5 MR. SHIP: Madame Examiner, a couple
6 things. One, the (inaudible) discussion is about
7 Canterra Drive. If your --

8 MADAME EXAMINER: I couldn't hear you, Mr.
9 Ship. What?

10 MR. SHIP: All right. I want to make sure I
11 am following you. The curbcut discussion we just had
12 was about Canterra Drive, not Muirkirk. The new
13 proposed --

14 MADAME EXAMINER: Okay. Okay. All right.

15 MR. SHIP: Yeah. I want to clarify that
16 Muirkirk on this side is adjacent to our property. It
17 is partially improved but none of them is improved
18 the full standards and that will be something that
19 the review agency, the operating agency requires that
20 permit under the -- the standards of road code.

21 MADAME EXAMINER: Okay. So, let me ask
22 again. A portion of, Mr. Lenhart, of Muirkirk is

1 improved along the southern boundary of this
2 property. You said to approximately through the first
3 building. After that is it a gravel road or is it a
4 paper road?

5 MR. LENHART: It is a gravel road. It does
6 serve some other properties back to the rear. And
7 it's -- it's improved with asphalt for approximately
8 600 feet west of Canterra Drive and beyond that point
9 it is-- I don't know if there's gravel but it's it's
10 pardon chip some something of that nature and would -
11 - it will be improved through our application.

12 MADAME EXAMINER: Okay. All right. Okay.
13 Thank you so much. Mr. Ship, anything further?

14 MR. SHIP: No further questions. I did want
15 to say that the we have an exhibit that site plan
16 which is 33, I believe that does show proposed
17 improvement status for Muirkirk if you want to look
18 at it, but it is in the record.

19 MADAME EXAMINER: No. We have looked at
20 that before. I'm good.

21 MR. SHIP: No further questions.

22 MADAME EXAMINER: All right. Thank you, Mr.

1 Lenhart. Pleasure to see you again. Next witness.

2 MR. SHIP: We have one more witness which
3 is Mr. Himmler has been waiting patiently. He's our
4 cleanup hitter. We're going to have him talk a little
5 bit about his economic study.

6 MADAME EXAMINER: Okay. Mr. Himmler. All
7 right. I need to swear you in, sir. Thank you so
8 much. I will solemnly swear and affirm under the
9 penalties of perjury that the responses given and
10 statements made will be the truth, the whole truth
11 and nothing but the truth?

12 MR. HIMMLER: I do.

13 MADAME EXAMINER: Thank you. Please state
14 your name and business address for the record.

15 MR. HIMMLER: Thomas Himmler, managing
16 member of Thomas Michael LLC. 6305 Ivy Lane, Suite
17 215. Greenbelt, Maryland.

18 MADAME EXAMINER: Thank you.

19 MR. HIMMLER: You're welcome.

20 MR. SHIP: Okay. Madame Examiner, I would
21 state that his CB is in as item 26.

22 MADAME EXAMINER: 26. Yes.

1 MR. SHIP: And his economic study that he's
2 going to refer to his item 32.

3 MADAME EXAMINER: Thank you.

4 MR. SHIP: Are you, Mr. Himmler, familiar
5 with the subject property the surrounding area?

6 MR. HIMMLER: Yes.

7 MR. SHIP: Did you do an analysis of the
8 real property revenue and employment benefits of
9 distribution warehouse in this that's proposed for
10 this subject property in this -- in the subject of
11 this application?

12 MR. HIMMLER: Yes. I prepared a report. It
13 was dated June of 2022.

14 MR. SHIP: And could you please just
15 briefly summarize the results of your report?

16 MR. HIMMLER: Yeah. The basic results were
17 that we found that the project would have a
18 significant positive economic impact on not only
19 Prince George's County, but the other governmental
20 entities as it relates to real property taxes to
21 state of Maryland, Maryland national Capital Park and
22 planning, Washington Suburban Transit Commission. We

1 looked at and ran three different scenarios to come
2 up with the impact. Kind of lower middle and upper
3 range and we looked at those in the context of
4 storage warehouse, distribution warehouse and then a
5 third one which was storage and distribution
6 warehouses that were less than 10 years old and I'm -
7 - in -- and in those models we are project --
8 projecting that over 30 year period the -- the new
9 real property taxes generated by this project would
10 be a low of 17.6 million to a high of 23.4 million
11 over that 30-year period and right now the property
12 currently is generating about little over forty nine
13 thousand dollars a year in property -- real property
14 taxes. So with this, both buildings fully build out,
15 that will increase more than 12 times the current
16 rate, roughly an average of nearly 600-thousand
17 dollars on the low end a year to almost seven hundred
18 eighty thousand a year and real property taxes. In
19 addition, the proposed project will create an
20 estimated 187 jobs with an annual wages being paid
21 around 10 million dollars of start with obviously
22 annual increases thereafter for cost of living and

1 other adjustments. So very significant impact from
2 its current use.

3 MR. SHIP: Thank you, Mr. Himmler. I do not
4 have any other questions. I did want to stay Madame
5 Examiner that obviously then the economic impact
6 study is not a legal requirement for this
7 application, but it's important background for the
8 case. So we want to make sure we got it is on the
9 record.

10 MADAME EXAMINER: Okay. All right. Thank
11 you. Mr. Brown?

12 MR. BROWN: Yes. Good afternoon or good
13 morning, Mr. Himmler, how are you?

14 MR. HIMMLER: Good Mr. Brown. Good to see
15 you.

16 MR. BROWN: Same here. Although this
17 application, there is no requirement for need in the
18 zoning ordinance. Your -- what I'm going to call
19 economic study, deals with the issue of real estate
20 taxes and the benefit to the county. As I read the
21 requirements for a special exception, actually, I
22 think there is a potential to say that your economic

1 study relates to this property. Looking at page 9 of
2 the staff report, where the staff outlines the
3 general requirements for a special exception of
4 paragraph D provides the criteria and approval of the
5 proposed use will not adversely affect the health,
6 safety or welfare of residents and workers in the
7 area. Based upon your testimony a minute ago, you
8 would say that the increase in real property taxes
9 over I think you said what a 20-year period of so --

10 MR. HIMMLER: 30-year. Yeah.

11 MR. BROWN: 30-year period would clearly
12 not have an adverse impact on the health, safety or
13 welfare of the residents. Correct?

14 MR. HIMMLER: Correct.

15 MR. BROWN: Then looking at subparagraph E
16 of the general requirements for a special exception
17 the proposed use will not be detrimental to the use
18 of development of adjacent properties or the general
19 neighborhood. Your testimony would also show
20 compliance with that section. Would it not?

21 MR. HIMMLER: Correct.

22 MR. BROWN: And there was one other section

1 I saw. I guess I missed that one. All right. No other
2 questions.

3 MADAME EXAMINER: Thank you. All right.
4 Thank you, Mr. Himmler. I have no questions. Mr.
5 Ship?

6 MR. SHIP: We have no further testimony. I
7 wanted to make my house cleaning comment because I'm
8 new to the virtual the AG hearing process that I want
9 to make sure that all the exhibits that we have
10 submitted have been accepted into the record.

11 MADAME EXAMINER: My exhibit list includes
12 39 exhibits. Is that the same count you have?

13 MR. SHIP: Correct.

14 MADAME EXAMINER: All right. They're all
15 in.

16 MR. SHIP: And I note the various items
17 that we have been directed and agreed that we will be
18 working to submit to you promptly. We will get on
19 that right away. I want to thank the Examiner and
20 people doing counseling for your time and attention
21 to this. This is an important project from the
22 standpoint of the economic development for this area

1 is in a location that has been always identified for
2 industrial use. It's consistent with that character.
3 It is a special exception requirement but I think
4 we've demonstrated compliance with the requirements
5 of the special exception and I would say overall
6 there is nothing unique or detrimental from this
7 proposal at this location that would prohibit or --
8 or speak against doing it. In fact, quite the
9 opposite. This is an ideal location given the road
10 network, its proximity to highway ramps and also the
11 surrounding character of industrial use that this is
12 where it's you should be and we work very closely
13 with the community folks, political folks, their
14 offices, but also with the planning staff and the
15 various technical reviewers to make sure that this
16 project will be a benefit to the county. And we stand
17 ready to move forward to the next phase if we are so
18 fortunate as to get a positive recommendation and
19 endorsement by the council, if necessary. We are here
20 to answer any other questions you might have that --
21 if there's other items, but with that we thank you
22 for your time.

1 MADAME EXAMINER: All right. Thank you. So
2 the evidentiary hearing in this matter will deemed to
3 have been concluded. I'm going to keep the record
4 open for the following items. One, language to allow
5 future architectural changes. Two, the ethics
6 affidavits of the -- I think there are two trustees
7 that need to be filed that have more than a 5%
8 interest. Three, the certificate of good standing
9 from SDAT for Mr. Dunn's planning analysis. Five a
10 reworking of condition 1K. And that's what I have.
11 Does anybody have anything different or additional?

12 FEMALE SPEAKER 1: Four.

13 MADAME EXAMINER: Sorry. CB40-2023. 1, 2,
14 3, 4, 5, 6 items.

15 MR. SHIP: Double checking my notes. And I
16 think that's all I have. Thank you.

17 MADAME EXAMINER: Okay. All right. Upon
18 receipt of the last one of those documents, the
19 record will close and a decision will be forthcoming,
20 but I will remind you it is Christmas.

21 MR. SHIP: Well, we do like Christmas
22 presents.

1 MADAME EXAMINER: Yeah.

2 MR. SHIP: We appreciate you for your time.

3 MADAME EXAMINER: Okay. I thank everybody
4 and happy holidays to everybody.

5 (The recording was concluded.)
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10 parties to the case and have no interest, financial
11 or otherwise, in its outcome.

12

13 

14 _____

15 LAUREN BISHOP

16 Planet Depos,

17 December 18, 2023

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