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OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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8320 SCHULTZ ROAD SENIOR HOUSING : Case No. SE-4830
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A hearing in the above-entitled matter was held on
May 12, 2021, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Joyce Nichols
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Matthew Tedesco, Esq.

On Behalf of People's Zoning:

Stan Brown

* * * * *

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P R O C E E D I N G S

1
2 MS. NICHOLS: All right. Good morning, it is the
3 12th of May at approximately 9:30 in the morning. There's
4 an echo. And we're here for Special Exception 4830, 4830
5 for Schultz Road Senior Housing, apartment housing for the
6 elderly or people who are handicapped. Good morning, Mr.
7 Tedesco.

8 MR. TEDESCO: Good morning. I think if Mr. Parker
9 (phonetic sp.) could mute his mic, I think that's causing
10 the echo. There we go, I think that's better. Good
11 morning, Madam Examiner, People's Zoning Council, Matthew
12 Tedesco on behalf of the applicant, 8230 Schultz Road LLC.
13 Madam Examiner, we have a number of folks who are signed up
14 here today primarily I believe only the folks from our list
15 that no other citizens outside of the folks that we had
16 preregistered are with us today. I see some of them in the
17 room. As a courtesy to them, if it's okay with you and
18 People's Zoning Council, I would like to have them speak
19 before my case in chief, just so they can get their comments
20 and thoughts on the record and then they can go about their
21 day, if that's okay with you.

22 MS. NICHOLS: All right. That's fine. Who would
23 like to speak prior to the applicant putting on his case?

24 MR. TEDESCO: So Madam Examiner, I think I saw Ms.
25 Reid, Mr. Parker, Mr. Vanderpool (phonetic sp.) in the room

1 and I believe Ms. Hill (phonetic sp.) may be joining us, so
2 if it's okay we would have Ms. Reid speak first.

3 MS. NICHOLS: All right. Ms. Reid, can you put
4 your camera on?

5 MS. REID: (No audible response.)

6 MS. NICHOLS: Thank you. All right. Ms. Reid, I
7 need you to raise your right hand, I need to swear you in.
8 Thank you. Do you solemnly swear or affirm under the
9 penalties of perjury in the matter now pending to tell the
10 truth, the whole truth and nothing but the truth?

11 MS. REID: Yes.

12 MS. NICHOLS: Ma'am, could you hear me?

13 MS. REID: Yes.

14 MS. NICHOLS: Did you hear me?

15 MS. REID: Yes. I responded. Can you hear me
16 now?

17 MS. NICHOLS: I can hear you now. Okay. All
18 right.

19 MS. REID: Okay.

20 MS. NICHOLS: All right. Now, would you please
21 state your name and address for the record?

22 MS. REID: Candida Freeman Reid, 12107 Riverview
23 Road, Fort Washington Maryland 20744.

24 MS. NICHOLS: All right. Thank you. What would
25 you like to say today with regard to this application?

1 MS. REID: Well, first of all I thank you for, for
2 having this hearing and I want to say that I'm just really
3 excited about the possibility and that, that we will have
4 (indiscernible) Prince George's County. I think I need to
5 delineate that first and foremost. As a 62-year-old,
6 approximately 62, it's very important for us to have
7 properties within the areas that we have lived for more than
8 30, 40 and 50 plus years, to feel comfortable already in the
9 community and yet it is after a certain point in time
10 downsize and we'd still like to be able to afford to stay
11 within close proximity of our churches, you know of our
12 families and of our friends. And this particular property
13 would give us that opportunity, and especially because we've
14 already been here for years and to have to move to other
15 areas of the county, or even other areas of Maryland or
16 Virginia, would just, that's inconvenient. So I'm excited
17 for that particular reason, as well as knowing that a
18 community has been established that will, you know, meet our
19 needs for socialization because you're with people of your
20 age group that is going to be a community that, that, that
21 will also meet our needs to continue to socialize based upon
22 the amenities that are being placed in that particular
23 property. So that, that's, that's the number one reason.

24 And to be able to stay closer to my children and
25 helping them with their children (indiscernible) my own, in

1 my own space that's within 15 minutes of them.

2 MS. NICHOLS: Congratulations. Okay.

3 MS. REID: Thank you.

4 MS. NICHOLS: That's wonderful. Is there anything
5 further you would like to add?

6 MS. REID: And further I'd just like to add that I
7 believe that the, the responsible parties for this property
8 are integress (phonetic sp.) and professional people and I
9 think that they will hold true to their vision and intention
10 for developing this particular area.

11 MS. NICHOLS: All right. Thank you. Mr. Brown or
12 Mr. Tedesco, do you either one of you have questions of Ms.
13 Reid?

14 MR. BROWN: No questions, thank you.

15 MR. TEDESCO: No questions, thank you. Madam
16 Examiner, with your permission if Ms. Reid could be excused,
17 that would be great.

18 MS. NICHOLS: Wonderful. Thank you for
19 participating, Ms. Reid, have a good day.

20 MS. REID: All right. Thank you.

21 MR. TEDESCO: Thank you, Ms. Reid.

22 MS. REID: All right. Thank you, sir.

23 MR. TEDESCO: Next I see Mr. Vanderpool on the
24 line as well, we could turn to him.

25 MR. VANDERPOOL: Hello.

1 MS. NICHOLS: I'm sorry, who?

2 MR. TEDESCO: It's on the screen as Malik V.

3 MS. NICHOLS: Oh, Malik V. Okay. All right.

4 Let's see, Mr. V., I need you to raise your right hand.

5 MR. VANDERPOOL: Yes.

6 MS. NICHOLS: I need to swear you in. You're

7 moving around, do you want to get settled and then I'll

8 swear you in? Are you good where you are?

9 MR. VANDERPOOL: Hold on. Yeah, I'm good now.

10 MS. NICHOLS: Okay. Thank you. Do you solemnly

11 swear or affirm under the penalties of perjury in the matter

12 now pending to tell the truth, the whole truth and nothing

13 but the truth?

14 MR. VANDERPOOL: Yes.

15 MS. NICHOLS: Thank you. Please state your name

16 and address for the record.

17 MR. VANDERPOOL: Malik Vanderpool, 11604 Bronco

18 Court, Upper Marlboro, Maryland 20772.

19 MS. NICHOLS: Thank you. What would you like to

20 say today?

21 MR. VANDERPOOL: I'm definitely in support of the

22 project. I think there is a need for more affordable senior

23 housing at this time, especially with the prices just going

24 up and I, I think that it would be something beneficial to

25 the community to have a project like this, I think it's

1 forward thinking on the owner's part.

2 MS. NICHOLS: All right. Thank you very much. Is
3 there anything you'd like to add?

4 MR. VANDERPOOL: Me?

5 MS. NICHOLS: Yes.

6 MR. VANDERPOOL: No, I'm just in support of the
7 project. I just think it would be a good idea for Prince
8 George's County, it would be something else positive that we
9 can add to this great county.

10 MS. NICHOLS: All right, wonderful. Thank you so
11 much. Mr. Brown or Mr. Tedesco, any questions of Mr.
12 Vanderpool?

13 MR. BROWN: No questions, thank you.

14 MR. TEDESCO: No questions, Madam Examiner. If
15 Mr. Vanderpool could be excused, that would be great.

16 MS. NICHOLS: Thank you very much for
17 participating, Mr. Vanderpool. Have a great day.

18 MR. VANDERPOOL: Thank you, you too.

19 MS. NICHOLS: Thank you.

20 MR. TEDESCO: I see Ms. Angela Hill, if we can
21 turn to Ms. Hill next and then followed by Mr. Parker.

22 MS. NICHOLS: All right. Ms. Hill, can you turn
23 your mic on please?

24 MS. HILL: Okay. Can you hear me now?

25 MS. NICHOLS: I can hear you now. I need --

1 MS. HILL: Great.

2 MS. NICHOLS: -- to raise your --

3 MS. HILL: (Indiscernible).

4 MS. NICHOLS: Good morning. I need you to raise
5 your right hand. Okay. Do you solemnly swear or affirm
6 under the penalties of perjury in the matter now pending to
7 tell the truth, the whole truth and nothing but the truth?

8 MS. HILL: I do.

9 MS. NICHOLS: Thank you so much, ma'am. Would you
10 state your name and address for the record?

11 MS. HILL: Angela Hill and my address is 9706
12 Rider Court, Fort Washington, Maryland 20744.

13 MS. NICHOLS: Thank you so much. What would you
14 like to say today with regards to this application?

15 MS. HILL: I'm very much in support of the
16 project. I am a board member of HIP and a resident of
17 Prince George's County as indicated by my address. I live
18 approximately five miles from the project, 10 minutes away
19 and I think that this project will be a great addition to
20 our community, particularly the Southern Prince George's
21 County community where affordable housing is desperately
22 needed and senior housing, quality senior housing is
23 definitely needed. I am very familiar with the developers,
24 HIP again, as a board member and Bank of America, I used to
25 work with Bank of America and the integrity of the

1 developers is very high and the quality of their development
2 is very high. So I think that seniors living in this
3 project will definitely benefit from quality affordable
4 housing in addition to the services that HIP will be able to
5 provide to the seniors.

6 MS. NICHOLS: Thank you very much, ma'am. Let's
7 see, Mr. Brown, Mr. Tedesco, any questions of Ms. Hill?

8 MR. BROWN: No questions, thank you.

9 MR. TEDESCO: No questions.

10 MS. NICHOLS: All right.

11 MS. HILL: Thank you all.

12 MS. NICHOLS: All right. Thank you, Ms. Hill.
13 Thank you so much for participating in the process. Have a
14 great day.

15 MS. HILL: You too.

16 MS. NICHOLS: Mr. Tedesco?

17 MR. TEDESCO: Madam Examiner, I see Mr. Parker and
18 then we also were just joined by, it's on your screen as
19 Larry Mitchell (phonetic sp.), I think that's Ms. Elaine
20 Mitchell, so Mr. Parker and then Ms. Mitchell will be the
21 last two citizens testifying.

22 MS. NICHOLS: All right. Mr. Parker, I need you
23 to raise your right hand, please. Do you solemnly swear or
24 affirm under the penalty of perjury that the (indiscernible)
25 tell the truth, the whole truth and nothing but the truth?

1 MR. PARKER: I do.

2 MS. NICHOLS: Thank you, sir. Could you please
3 state your name and address for the record?

4 MR. PARKER: My name is Samuel J. Parker, Junior,
5 and I live at 5601 57th Avenue, in Riverdale, Maryland. I
6 am President of the Board of Trustees of HIP and I've been
7 part of HIP for, for about since 2012. As, as one of the
8 other individuals stated, is that there, HIP is a very high
9 quality builder. We have multifamily and senior buildings
10 in Prince George's County and in Bladensburg, Hyattsville,
11 and, and Mount Rainer. We are a quality builder as was said
12 before. We had, we go for long term ownership in, in, in
13 our buildings that we are involved in. So there couldn't
14 really be a better builder for senior housing in, for this
15 particular project.

16 As you probably know, the project is approved for
17 low income housing tax credits and it's, it, as it was said
18 before it's, it's a documented need for affordable housing
19 for seniors in Prince George's County and also in this
20 particular part of the county. HIP, along with its
21 professional team, builds quality buildings. There's
22 attention to architecture, so it will add not only to a
23 service that's needed for seniors but it will also add to
24 the environment in which it's being built because of the
25 attention that it pays both to the exterior of the building

1 and also it's important to note that, that the services and
2 activity centers and the, that are provided for the seniors
3 are high on the list of what HIP provides for its, for its
4 tenants and especially, especially seniors. There is
5 sensitivity to how the building fits in its environment and
6 how the residents and the people surrounding the building
7 will be able to access the building not only by cars but by
8 pedestrian access how that access allows the surrounding
9 community to, to be part of this project and how the project
10 fits into the needs of the community both from a pedestrian
11 perspective and environmental perspective.

12 As I said before, there's an abundance of
13 interior, of interior activities and spaces that the seniors
14 will have access to and too, HIP always provides tenant
15 services and especially their particular needs for seniors
16 that the, that, that we bring from our experience with other
17 building, buildings and also from our experience for the
18 services that we provide generally at HIP to the tenants.
19 HIP is committed to providing very high quality site
20 services to, to our, to our seniors as I said before. So I
21 think not only as I said before, not only are we providing a
22 quality building, we're providing a, a need for a population
23 group that is extremely in need of affordable housing and
24 we, we make a long term commitment to staying with both the
25 ownership and management and services of these properties

1 for the life of, for the life of those buildings. So I am
2 wholeheartedly in support of, of this particular project.
3 Thank you.

4 MS. NICHOLS: All right. Thank you very much,
5 sir. Mr. Brown, Mr. Tedesco, any questions?

6 MR. BROWN: No questions, thank you.

7 MR. TEDESCO: No questions. Thank you, Mr.
8 Parker. If Mr. Parker could be excused that would be great.

9 MS. NICHOLS: Yes, thank you Mr. Parker for
10 participating. Have a great day.

11 MR. PARKER: Thank you.

12 MS. NICHOLS: And we have Ms. Mitchell? I need
13 you to turn on your video, please.

14 MS. MITCHELL: Yes, good morning. I got a message
15 that says that I have to ask the presenter to let me come
16 in. I'm sorry, this is the first time for me using this
17 particular --

18 MS. NICHOLS: No worry. No worries. Well, I
19 think --

20 MS. MITCHELL: It says to share your screen ask
21 the organizer to make you, you a presenter.

22 MS. NICHOLS: Yes, you don't need to worry about
23 that. I just need you to, I can hear you and you just need
24 to --

25 MS. MITCHELL: Okay.

1 MS. NICHOLS: -- your video on. You need to turn
2 your video on.

3 MS. MITCHELL: Well, I'm saying it have the line
4 on the screen that says I have to ask the organizer to make
5 me a presenter. I just clicked on it, so.

6 MR. TEDESCO: Ms. Mitchell, this is Matt.

7 MS. MITCHELL: Yes.

8 MR. TEDESCO: On your screen there should be a
9 button that looks like a video camera, not the one that
10 looks --

11 MS. MITCHELL: (Sound.)

12 MR. TEDESCO: -- like a computer screen. It's --

13 MS. MITCHELL: Oh right here?

14 MR. TEDESCO: There you go.

15 MS. MITCHELL: Am I on now?

16 MR. TEDESCO: If you hit the one that looks like a
17 video camera it should turn green.

18 MS. MITCHELL: Okay. It's green.

19 MR. FERGUSON: Madam Examiner, Mark Ferguson. She
20 may have a cover on her lense.

21 MS. MITCHELL: Okay. Is the lens up top?

22 MR. TEDESCO: Yes.

23 MS. MITCHELL: I see a green light by the camera,
24 I don't, oh wait, what's this do?

25 MR. TEDESCO: It may not have a camera.

1 MS. MITCHELL: Hmm?

2 MR. TEDESCO: Your computer may not have a camera.

3 MS. MITCHELL: Right. Like I said, this is, I'm,
4 I'm sorry this is the first time that I've used this
5 particular program. I see the light, on zoom, you can see
6 me on zoom and I apologize for the time it says camera now
7 it's turned, it's green, oh it's not green. Turn on camera
8 (sound).

9 MR. TEDESCO: Madam Examiner, could we, as if she
10 were calling in by phone --

11 MS. NICHOLS: Yes.

12 MR. TEDESCO: -- could we swear her in without
13 her video?

14 MS. NICHOLS: Yes, all right. Ms. Mitchell, I
15 need you to tell me that you have raised your right hand.

16 MS. MITCHELL: I have raised my right hand.

17 MS. NICHOLS: Thank you. Do you solemnly swear or
18 affirm under the penalties of perjury in the matter now
19 pending to tell the truth, the whole truth and nothing but
20 the truth?

21 MS. MITCHELL: So help me, God, I do. I will tell
22 the whole truth.

23 MS. NICHOLS: Thank you so much. Would you please
24 state your name and address for the record?

25 MS. MITCHELL: Okay. My name is Elaine Jones

1 Mitchell or Ms. Larry Mitchell. My address is 6325 Manor
2 Circle Drive, Clinton, Maryland 20735 is my zip.

3 MS. NICHOLS: Thank you. What would you like to
4 say today about the project?

5 MS. MITCHELL: First of all, I thank you for this
6 opportunity to address this hearing. As I stated, my name
7 is Ms. Elaine Jones Mitchell. I moved to an apartment in
8 Forestville, Maryland in Prince George's County on November
9 1, 1980. Then on September 18th 1986 my family and I moved
10 to the purchased home at my stated address, 6325 Manor
11 Circle Drive, in the Lewis Spring Manor neighborhood in
12 Clinton, Maryland. This is still my current address.

13 On this coming May 24, 2021, I prayerfully hope to
14 celebrate my 70th, seven zero birthday. So due to my
15 residence in Clinton for 34 and a half years and my age of
16 over 65 plus years, I feel I am qualified to give my
17 wholehearted support for this warranted development. I am
18 extremely interested in the development in the county and of
19 course my own Clinton neighborhood. I have an abundance of
20 family, friends, I'm a member of Omega church. My sister is
21 a member of Omega Church and of course, I have family live
22 not only in the county, but also across the United States
23 who are in this age 62 plus democrat, demographic. So I am
24 aware of seniors, I've talked to seniors who know and need
25 affordable housing that this project offers.

1 A few of my friends have expressed they want to be
2 free of the responsibilities and stress of homeownership
3 because of costs of repairs, worrying about lawn
4 maintenance, shoveling snow when applicable and paying high
5 utility bills. A few have had their spouses pass and are
6 ready to downsize their homes. I've seen an increase in the
7 number of seniors in Shopper's, Safeway, Lowes, Starbucks
8 and Wal-Mart stores in Clinton, just to name a few,
9 appearing in these businesses compared to when we first
10 moved to Clinton in 1986. Therefore, the demand for senior
11 housing has greatly increased.

12 I have not observed any new apartments, condos, or
13 affordable rental housing for seniors aged 62 or older in
14 Clinton in recent years.

15 The county is losing longtime residents aged 62
16 plus seniors to the senior homes in Anne Arundel County,
17 Charles County, I have several friends who have moved to
18 Charles County, Howard County, Montgomery County and even in
19 Richmond, Virginia and Fredericksburg, Virginia and other
20 parts of Virginia due to the lack of availability of housing
21 designated just for seniors in this age demographic. I
22 wholeheartedly support this Schultz Road Senior Housing
23 Development for (indiscernible) reasons, first somebody
24 needs to moot, mute.

25 The first reason is because it will satisfy the

1 void, the need of new housing for this designated aged 62
2 plus senior citizen demographic. Secondly (indiscernible)
3 secondly this --

4 MS. NICHOLS: Ms. Mitchell --

5 MR. TEDESCO: Ms. Mitchell --

6 MS. NICHOLS: -- Ms. Mitchell, would you pause for
7 just one second? Fatima, could you mute your mic, please?
8 Thank you so much. I'm sorry, Ms. Mitchell --

9 MS. MITCHELL: Thank you. That's fine. Secondly,
10 this senior housing development at Schultz Road will benefit
11 our seniors by offering services for the residents of
12 Clinton and even neighboring communities that are not
13 presently being offered. The housing and services will help
14 our community live healthier and happier lives with less
15 stress and be free to pursue new opportunities. The Schultz
16 Road Senior Housing development's great location is another
17 reason for my support because the housing development is
18 very accessible to various businesses, for example, grocery
19 stores, discount stores, drug stores, gas stations, beauty
20 and barber shops, numerous stores, churches and restaurants.
21 Everything that will make them have to thrive and live
22 golden lives in their golden years.

23 Route 5 or Branch Avenue is very close to the
24 senior residents to the metro and the beltway. Bus routes
25 are also close to the proposed housing site. This location

1 will positively impact on the residents and will address the
2 need for new and adequate senior housing in this section of
3 Prince George's County.

4 Finally, I strongly support the approval and
5 construction of the Schultz Road Senior Housing development.
6 Thank you for your time.

7 MS. NICHOLS: Thank you so much, Ms. Mitchell.
8 Mr. Brown, do you have any questions of Ms. Mitchell?

9 MR. BROWN: Ms. Mitchell, would you like to put
10 that written statement into the record?

11 MS. MITCHELL: Yes, sir.

12 MR. BROWN: All right. Before the record closes,
13 if you could send a copy by e-mail to the Examiner, that
14 would be great.

15 MS. MITCHELL: All right. Thank you, sir. Do I
16 have the e-mail address of the Examiner?

17 MR. BROWN: She'll give it to you in the chat.

18 MS. MITCHELL: Oh, okay. Thank you so much. You
19 all have a good day.

20 MS. NICHOLS: Thank you, ma'am. You too. Mr.
21 Tedesco, I presume you have no questions?

22 MR. TEDESCO: I have no questions, and thank you,
23 Mr. Brown for clarifying that for Ms. Mitchell. We would
24 like to have that statement into the record and if staff
25 could provide that in the chat or if we can e-mail it, she

1 can e-mail it to me as well.

2 MS. NICHOLS: Okay. All right.

3 MR. TEDESCO: With that, Madam Examiner, I think
4 we're ready to proceed with our case in chief and I thank
5 you and the People's Zoning Council's indulgence for
6 allowing those citizens to provide their testimony in
7 advance so that they can go on with their days. Madam
8 Examiner, as you know --

9 MS. NICHOLS: Just one, it's just, Ms. Mitchell,
10 could you turn off your mic?

11 MS. MITCHELL: Okay.

12 MS. NICHOLS: Yes. Thank you. And I'm presuming
13 somebody is reaching out to you in chat to give you the e-
14 mail address.

15 THE CLERK: Yes, I'm doing that right now.

16 MS. NICHOLS: Okay. Thank you so much. All
17 right. I'm sorry, Mr. Tedesco, please continue.

18 MR. TEDESCO: No problem, thank you, Madam
19 Examiner. As you've heard from the testimony thus far, this
20 case involves a request for a senior housing multifamily
21 project located at 8230 Schultz Road in Clinton, Maryland.
22 That property is in the southeast corner of the intersection
23 of Schultz Road and Spring Brook Lane. You have numerous
24 exhibits in the record depicting those. You'll hear
25 additional testimony this morning with respect to the

1 property, its proposed development as well as the proposed
2 use. And generally, if you'd just bear with me for a
3 second, the applicant plans to, well, before I get too far
4 ahead. I do want to make one clarification for the record
5 and if you need something more substantive, I can provide
6 it.

7 But I noticed in preparation of this case that the
8 applicant on the special exception application was listed as
9 at 8230 Schultz Road R-O-A-D LLC. The Articles of
10 Organization for the entity that's been created for this
11 development is 8230 Schultz Road RD LLC. So 8230 Schultz
12 Road RD LLC. They shortened road, I think it's replete
13 throughout, I think it's been used interchangeably, but I
14 did want just for your edification and People's Zoning
15 Council's edification, the proper entity name which is
16 depicted on Exhibit 30 is 8230 Schultz RD, LLC.

17 MS. NICHOLS: Okay.

18 MR. TEDESCO: So if there needs to be an
19 (indiscernible) amendment to the application, I would submit
20 to do that verbally. If I need to do that in writing, I
21 can.

22 MS. NICHOLS: All right. I think that's fine. I
23 think that's fine, you've done it verbally, I think that's
24 fine.

25 MR. TEDESCO: Okay. Thank you. And sorry for

1 that, I just think it was just an unintended oversight.

2 The applicant intends to acquire land to
3 construct, as I mentioned and as you've heard, a 90-unit
4 affordable apartment housing community for seniors ages 62
5 and over in Clinton, Prince George's County, Maryland, on
6 approximately 3.5 acres. The location of the property is
7 just outside the Capital Beltway southeast of the Washington
8 Metropolitan District of Columbia line, about a half mile
9 from Coventry Way's intersection with Branch Avenue.

10 It will offer residents a convenient location for
11 employment, healthcare, retail and transit. There's a metro
12 stop located 0.7 miles away from the community's entrance,
13 will offer transit to the Branch Avenue Metro Station which
14 is located 5.6 miles away from the site. Significant nearby
15 employment centers include the Andrews Air Force Base
16 located two and a half miles from the site, and the U.S.
17 Census Bureau Headquarters at the Suitland Federal Center,
18 which is seven miles away.

19 Local amenities include the Woodyard Crossing
20 Shopping Center which is 1.8 miles away. It's home to the
21 retail options such as Safeway Supermarket, Wal-Mart, Lowes
22 Home Improvement Store. Other nearby amenities include a
23 post office, a Walgreen's Pharmacy, several banks, various
24 restaurants and eateries and a Patient First Clinic and
25 other medical offices. Med-Star Southern Maryland Hospital

1 Center is also located at the intersection of Surratts Road
2 and Branch Avenue which is just over two miles from the
3 site. A public elementary, middle and high schools are
4 located within two miles of the subject property.

5 The applicant proposes a four story elevator
6 served building, 90 units, 72 units will be one bedroom, one
7 bath, eight units will have two bedrooms and one bath and 10
8 units will have two bedrooms and two baths. On site
9 amenities available to the residents will, you'll hear
10 testimony to this, but include a large multipurpose
11 community room, kitchenette, party room and workout room.
12 There will be common areas, laundry rooms on the second and
13 third and fourth floors. The managing agent, Habitat
14 America, will maintain onsite management offices. A social
15 services coordinator will be on site 15 hours a week or
16 organize and monitor programming and identify the best
17 onsite, offsite services for the individual residents.

18 In addition to that, Madam Examiner, you'll hear
19 we have seven witnesses who are prepared to testify that
20 this morning, we'll try to be brief and not redundant in
21 their testimony. At the conclusion of the hearing, we would
22 submit to you that there is existing or will be substantial
23 evidence in the record to support the required findings in
24 this case which are provided in Section 27-317 and 27-337
25 and the subparts of 27-337 that are applicable to this case

1 are subsection A and subsection B4. And we believe that all
2 those are met. The technical staff for Maryland National
3 Capital Park and Planning Commission has provided a Staff
4 Report and has recommended approval subject to conditions.

5 I should also mention that on April 29, 2021, the
6 Planning Board of the Maryland National Capital Park and
7 Planning Commission approved a Preliminary Plan of
8 Subdivision which was 4-2007 for the subdivision of the
9 subject property into one parcel to accommodate the proposed
10 90 apartment dwelling units for the elderly.

11 And with that, Madam Examiner, we're ready to call
12 our first witness unless there is any preliminarily
13 questions.

14 MS. NICHOLS: No. Who is your first witness?

15 MR. TEDESCO: We would call Maryann Dillon.

16 MS. NICHOLS: Ms. Dillon, good morning. I need
17 you to raise your right hand, please. Do you solemnly swear
18 or affirm under the penalties of perjury in the matter now
19 pending to tell the truth, the whole truth and nothing but
20 the truth?

21 MS. DILLON: I do.

22 MS. NICHOLS: Thank you. Please state your name
23 and address for the record.

24 MS. DILLON: My name is Maryann Dillon, my address
25 is 10002 Parkwood Drive, Bethesda, Maryland 20814.

1 MS. NICHOLS: Thank you.

2 MR. TEDESCO: Ms. Dillon, where are you currently
3 employed?

4 MS. DILLON: And so I'm Executive Director of
5 Housing Initiative Partnership, also known as HIP, I think
6 you referred to that earlier. And I'm responsible for staff
7 of 22. We are an innovative green housing developer and
8 counseling agency serving both Prince George's and
9 Montgomery Counties. And so we provide a mix of services
10 and I oversee all the programs of HIP.

11 MR. TEDESCO: And what's the business address for
12 HIP? I don't think we heard that.

13 MS. DILLON: Okay. 6525 Bell Crest Road, Suite
14 555, Hyattsville, 20782.

15 MR. TEDESCO: And are you authorized to testify on
16 behalf of 8230 Schultz Road LLC in this matter?

17 MS. DILLON: Yes, I am.

18 MR. TEDESCO: And Madam Examiner, we had a limited
19 power of attorney executed and it's Exhibit 40, we would ask
20 for that to be accepted into the record, authorizing Ms.
21 Dillon as well as Mr. Ervin to act as limited powers of
22 attorneys on behalf of that entity.

23 MS. NICHOLS: So accepted.

24 (Hearing Exhibit No. 40 previously
25 marked for identification was

1 received into evidence.)

2 MR. TEDESCO: In referencing just for the record
3 the applicant and we're referring to 8230 Schultz Road LLC,
4 I just really don't want to have say that over and over. So
5 I'll just use the applicant term. Is the applicant
6 registered to do business in State of Maryland and is in
7 good standing?

8 MS. DILLON: Yes, it is in good standing.

9 MR. TEDESCO: Madam Examiner, we had Exhibit 30
10 premarked as a certificate of good standing from the State
11 Department of Assessments and Taxation. We would ask for
12 that to be accepted into the record.

13 MS. NICHOLS: So accepted
14 (Hearing Exhibit No. 30 previously
15 marked for identification was
16 received into evidence.)

17 MR. TEDESCO: And Ms. Dillon, could you please
18 briefly describe the corporate structure for the applicant?

19 MS. DILLON: Okay. We, well I just say it's an
20 LLC, Schultz Road LLC and the LLC will have members in it
21 and Housing Initiative Partnership will be the managing
22 member of another entity. I know this gets confusing. So
23 what, we'll be the managing member of the development entity
24 that's a member of the LLC along with Paralex Development
25 (phonetic sp.) which will have a 39 percent ownership

1 interest and Bank of America CEC with a 10 percent ownership
2 interest. So this, this other entity that we're creating or
3 that we have created, 8230 Schultz Road Developer LLC will
4 be a member of the proposed owner. If that's as clear as
5 mud let me know.

6 MR. TEDESCO: And does the applicant own the
7 subject property currently?

8 MS. DILLON: No, we have a memorandum of
9 understanding to purchase it and we've negotiated a purchase
10 contract for the property which we have not yet executed.

11 MR. TEDESCO: Is that purchase and sales agreement
12 acceptable to the parties as far as you know?

13 MS. DILLON: Yes, it is. Yes, all, all parties
14 have agreed to it.

15 MR. TEDESCO: And could you provide the Hearing
16 Examiner and People's Zoning Council the brief summary of
17 just Housing Initiative Partnership, HIP?

18 MS. DILLON: Yes, certainly. We've been around
19 for 31 years. We are a green innovative nonprofit housing
20 developer and counseling agency, dedicated to revitalizing
21 neighborhoods and we have a number of services that we
22 provide where multifamily developers witness this
23 application here, we're also single family development
24 developers, we acquire distressed properties throughout
25 Prince George's County that we renovate and sell to first

1 time home buyers. And then we have a housing counseling
2 division which helps prepare people for homeownership, does
3 foreclosure prevention. We have a very robust renter
4 assistance program right now with what's going on with
5 COVID. We're doing a lot of work helping renters apply for
6 emergency rental assistance and we also serve the homeless
7 with our rapid rehousing program, where we help families
8 moving out of shelters move into permanent housing and, and
9 we support them during that time.

10 I know that Mr. Tedesco mentioned resident
11 service, of which we will have at this property. We have in
12 all of our multifamily properties we will have a part-time
13 resident services coordinator and that, that person will
14 provide not just social services to the residents and social
15 activities but also will assist them making sure that
16 they're getting the services they need, like their social
17 security or the Medicare benefits, renters, tax credits, and
18 things of that nature.

19 MR. TEDESCO: And were you involved in the
20 decision to develop the subject property for senior housing?

21 MS. DILLON: Yes, I was.

22 MR. TEDESCO: And could you just elaborate a
23 little bit more on the decision --

24 MS. DILLON: To get --

25 MR. TEDESCO: -- in this property?

1 MS. DILLON: Yes. We had been doing work with
2 Howard for a while and he was helping us try to identify
3 properties that we could potentially develop into
4 multifamily housing and you know Howard brought this
5 property, this opportunity to us and in doing an assessment
6 of it, we determined that it was an ideal candidate for
7 senior housing, and that it would score very well with the
8 State of Maryland to, to get tax exempt bonds and tax
9 credits to support the development.

10 MR. TEDESCO: And how many units are proposed? I
11 alluded to it in my opening, but we'd like to have actual
12 testimony. How many units are proposed?

13 MS. DILLON: Ninety units.

14 MR. TEDESCO: And do you know how those are broken
15 down?

16 MS. DILLON: Yeah, I believe it's, I don't have it
17 in front of me but it's 72 one bedroom units, and 18 two
18 bedroom units.

19 MR. TEDESCO: And are you familiar and know the
20 size range of those units by chance?

21 MS. DILLON: I do and I don't have that in front
22 of me. I'm sorry, I don't have those in front of me to go
23 in, in --

24 MR. TEDESCO: That's okay.

25 MS. DILLON: -- more definitively.

1 MR. TEDESCO: That's okay, it's not dispositive
2 for the, if I may, Madam Examiner, just for your
3 edification, generally the one bedrooms are between 609
4 square feet to 652 square feet and two bedrooms are
5 generally 845 square feet to 868 square feet --

6 MS. DILLON: Okay. Yeah, I, yeah, I'm sorry, but
7 I do have them in front of me now.

8 MR. TEDESCO: Okay. Can you confirm that, are
9 those numbers correct?

10 MS. DILLON: Yeah, those numbers are correct.

11 MR. TEDESCO: Ms. Dillon, will any of the units
12 conform to the Uniform Federal Accessibility Standards,
13 UFAS?

14 MS. DILLON: Yes, we will have seven units that,
15 that comply with that standard.

16 MR. TEDESCO: And I think you may have eluded to
17 this already, but if you could just further clarify the
18 recreational amenities proposed for the development?

19 MS. DILLON: Okay. We have a fitness room, we're
20 going to have a party room, also an outdoor patio. One,
21 one of the really nice features is we will have a
22 hospitality suite outside, which will be a small, it's not
23 really an apartment, but it's like a hotel room so that when
24 seniors have guests coming they have a place to stay
25 overnight if they need to. That, that's a really great

1 amenity to have. And of course the onsite resident services
2 coordinator that we mentioned before.

3 MR. TEDESCO: Will there be programs and services
4 for the residents offered?

5 MS. DILLON: Yes, we, we generally design the
6 services once the residents are in, we survey them. We
7 engage with them and find out what their priorities are,
8 what their needs are. But typically what we will provide in
9 the senior building would include you know breakfast, lunch,
10 special events celebrating birthdays, bringing people
11 together, you know, for you know one on one coaching for to,
12 to access services such as, you know, Medicare, Medicaid,
13 what have you, medical services and that kind of thing.

14 MR. TEDESCO: Did you or HIP in particular do any
15 community outreach associated with this application?

16 MS. DILLON: Yes, we did quite a bit of community
17 outreach. We met with the Clinton District 5 Coffee Club
18 and presented our project to them on two occasions. I also
19 personally reached out by phone and by e-mail to Sarah
20 Cavitt (phonetic sp.), who is an interested party who's
21 special interest is universal design. And so I, I reached
22 out to her to let her know, to keep her updated on the plans
23 and indicate what universal design features we were able to
24 incorporate. You'll learn more about that when Howard Ervin
25 gives his testimony, because he, he's kept track of all of

1 the community outreach that we've done.

2 MR. TEDESCO: Have you reviewed the statement of
3 justification which is Exhibit 4 in this case?

4 MS. DILLON: Yes, I have.

5 MR. TEDESCO: And do you further incorporate and
6 adopt as your testimony here today that statement of
7 justification?

8 MS. DILLON: Yes, I do.

9 MR. TEDESCO: And are you familiar with the
10 Technical Staff Report which is Exhibit 15 in this matter?

11 MS. DILLON: Yes, I am familiar with it.

12 MR. TEDESCO: And do you agree with the
13 recommended findings and conditions?

14 MS. DILLON: Yes, I generally do agree with them,
15 yes.

16 MR. TEDESCO: If this application is granted is it
17 your intention on behalf of the applicant to construct the
18 improvements in accordance with the site drawings filed in
19 this matter?

20 MS. DILLON: Yes.

21 MR. TEDESCO: And is it also your intention to
22 operate the proposed facility in accordance with all
23 applicable licenses, permits and in accordance with the
24 representations made here today?

25 MS. DILLON: Yes, it is.

1 MR. TEDESCO: That would be all the questions I
2 have for Ms. Dillon, Madam Examiner.

3 MS. NICHOLS: Thank you. Mr. Brown?

4 MR. BROWN: Just a couple of questions, some of
5 them will be related to Mr. Ervin when he testifies in a
6 moment. But Ms. Dillon, if you could just clarify for me,
7 you indicated that there will be an LLC created and Paralex
8 Development I believe was the term you used would be one of
9 the members of that proposed LLC, is that correct?

10 MS. DILLON: Yes, I think to get, to get really
11 technical, Paralex will probably create a standalone single
12 purpose entity that would become a member of that LLC, just
13 as HIP, HIP will also do the same thing.

14 MR. BROWN: So Paralex at the current time is not
15 an owner of the property, is that correct?

16 MS. DILLON: I, I think, well, I'll let Mr. Ervin
17 answer that but Mister --

18 MR. BROWN: All right. I'll hold that --

19 MS. DILLON: -- (indiscernible) is the owner of
20 the property too, and another ownership entity, not Paralex.

21 MR. BROWN: All right.

22 MS. DILLON: A different ownership entity.

23 MR. BROWN: You also mentioned that Bank of
24 America is a future member of one of the LLC's.

25 MS. DILLON: Yes.

1 MR. BROWN: Is Bank of America financing this
2 project?

3 MS. DILLON: In part they are. In part they are,
4 they'll provide a construction loan. But we have other
5 lenders who will provide the permanent financing and be the
6 tax credit investor.

7 MR. BROWN: And what is Paralex Development's role
8 in this project?

9 MS. DILLON: They are, they're a member of the
10 LLC. Howard has been very involved in all of the design
11 development, a lot of the community outreach. He's been
12 part of every decision that we've had to make about the
13 project, about the amenities on the project and the layout
14 and design of the project and he's been involved in the
15 financing. He's really been involved in every aspect of the
16 property.

17 MR. BROWN: All right. I'll ask him the same
18 questions, but I'm sort of confused when you say Paralex is
19 a member of the LLC, there are various LLC's involved in
20 this particular project, so which LLC are you referring to?

21 MS. DILLON: It's very confusing. All right. So
22 there's the ownership LLC --

23 MR. BROWN: Which HIP and Wearing Purple LLC,
24 correct? That's the ownership.

25 MS. DILLON: Okay. The proposed ownership is 8230

1 Schultz Road LLC. They'll be the owner. And then within
2 that LLC there, there are members of that LLC, one member of
3 the LLC will be the development team and that's, that entity
4 is called 8230 Schultz Road Developer LLC. In that LLC has
5 three members to it, one being Housing Initiative
6 Partnership, one being Paralex and, and the third being Bank
7 of America CEC. We, we each will have an ownership interest
8 in that entity. And then later on when this closes, 8230
9 Schultz Road LLC will admit a new member which will be the
10 tax credit investor. And, and these are very confusing
11 structures but this is how every tax credit investment deal
12 is, is structured.

13 MR. BROWN: Well, I understand.

14 MS. DILLON: So I'm sorry to confuse you but I
15 know it's, it is confusing.

16 MR. BROWN: Yes, no, the reason I ask these
17 questions and Mr. Tedesco can clarify and put in the record
18 any additional documents that may not be in the record, and
19 I'm not saying they're not in the record, but we need to
20 have disclosure form and or business entity affidavits for
21 any entity that owns five percent or more of the property
22 for, in this case what you're proposing as a potential owner
23 of the property. I did not see, and again I'm not sure it's
24 not in the record, it may be, but I did not see any
25 disclosure for Paralex Development or Bank of America if

1 they are a future owner of this property. If HIP is the
2 contract purchaser and I'm looking at the disclosure
3 statement that says Howard Ervin doing business as HME
4 Investments LLC and I assume his wife, Joy Ervin, doing
5 business as Wearing Purple LLC are the current owners owning
6 100 percent of this property, their disclosure is in the
7 record. I don't see a disclosure for these other two
8 entities that you mentioned Paralex Development and Bank of
9 America. So you don't need to answer this question right
10 now, but Mr. Tedesco, if it is not in the record, we need
11 disclosure statements from these additional what I'm going
12 to call business entities that are involved in the project.

13 MR. TEDESCO: Yes, Mr. Brown, thank you. Exhibit
14 13 we believe we have all the proper state ethics affidavits
15 in Exhibit 13. We have the 8230 Schultz Road LLC, we have
16 the HME Investment LLC. We have individual affidavits from
17 Mr. Ervin. We have the Wearing Purple LLC. And again HME
18 and Wearing Purple, those are the current owners of the
19 property. We have the individual affidavit of Joy Ervin and
20 then we have the Bank of America Community CDC affidavit and
21 then an individual affidavit by Mr. Perry (phonetic sp.) on
22 behalf of that. And then we have the 8230 Schultz Road In
23 Care Of HIP in there. So the only one I thought we had but
24 I'm not necessarily seeing is 8230 Schultz Road In Care Of
25 Paralex. But Mr. Ervin has signed on behalf of HME and has

1 signed individually. So if we need to put in a sixth one
2 for 8230 Schultz Road LLC In Care Of Paralex, we can
3 certainly do that.

4 MR. BROWN: All right.

5 MR. TEDESCO: I think maybe with the exception of
6 that one everything is in there. I thought we had that one
7 too, so let me just, I'll have to check my records. I
8 thought that was also included.

9 MR. BROWN: Sure, we can add it later.

10 MR. TEDESCO: Okay. It was, yes, you can imagine
11 getting that organized, but we did our best to get the right
12 ones in. So if we need to include that Paralex one, we can.

13 MR. BROWN: Great. No other questions, thank you.

14 MS. DILLON: Thank you.

15 MS. NICHOLS: Mr. Brown, excuse me, Mr. Tedesco,
16 do you have any questions?

17 MR. TEDESCO: No. No, Madam Examiner.

18 MS. NICHOLS: All right. Thank you very much.

19 MR. TEDESCO: Yes, we would call Mr. Howard Ervin.

20 MS. NICHOLS: All right. Mr. Ervin?

21 MR. ERVIN: Yes. Good morning.

22 MS. NICHOLS: Good morning. I need you to raise
23 your right hand, please. Thank you. Do you solemnly swear
24 or affirm under the penalties of perjury in the matter now
25 pending to tell the truth, the whole truth and nothing but

1 the truth?

2 MR. ERVIN: Yes, I do.

3 MS. NICHOLS: Thank you. Please state your name
4 and address for the record.

5 MR. ERVIN: My name is Howard Ervin, my address is
6 15644 Ensley Lane, Bowie, Maryland 20716.

7 MS. NICHOLS: All right. Thank you. Mr. Tedesco?

8 MR. TEDESCO: Thank you, Madam Examiner. Mr.
9 Ervin, could you provide us with where are you currently
10 employed or what business are you in?

11 MR. ERVIN: Okay. I am, I am the founder, well
12 cofounder and managing member of both Paralex Development
13 LLC. I am the founder, and cofounder rather, and managing
14 member of Paralex Real Estate Services, LLC. Our Paralex
15 Development Group is an affordable housing development
16 company formed to develop affordable housing around the Mid-
17 Atlantic. And Paralex Real Estate Services, LLC is a real
18 estate services company started to perform third party real
19 estate services in and around the Mid-Atlantic as well.

20 MR. TEDESCO: And you are authorized to testify
21 here today on behalf of the applicant pursuant to Exhibit
22 40, which is the power of attorney, is your understanding,
23 correct?

24 MR. ERVIN: Yes, that's correct.

25 MR. TEDESCO: And you were present obviously when

1 Ms. Dillon was testifying, Mr. Brown was asking questions
2 about the entity structure. Would you like to elaborate a
3 little bit more or do you align yourself with Ms. Dillon?

4 MR. ERVIN: Yes. I mean, yes, well I will say and
5 add to the record, we're also Howard Ervin, I'm also the,
6 the sole member and owner of HME Investments LLC. We can
7 get to that later and my wife, Joy Ervin, is also the sole
8 member and owner of Wearing Purple LLC. Both of us are both
9 co-owners and 100 percent owners in Paralex Development
10 Group LLC and Paralex Real Estate Services LLC.

11 MR. TEDESCO: And so you preempted me a little
12 bit, who are the current owners of the subject property?

13 MR. ERVIN: The current owners of the subject
14 property is HME Investments LLC and Wearing Purple LLC.
15 Both of those entities are single owner special purpose
16 entities. I own, Howard Ervin owns 100 percent of HME
17 Investments LLC and Joy Ervin who is also my wife owns 100
18 percent of Wearing Purple LLC. So together myself and my
19 wife, Joy Ervin, own 100 percent of the land located at 8230
20 Schultz Road.

21 MR. TEDESCO: And were you involved in the
22 decision to develop this property for senior housing
23 apartment building?

24 MR. ERVIN: Absolutely. Every, every aspect.

25 MR. TEDESCO: Could you in your own words, can you

1 provide us with, you know, the basis for your desire to
2 develop the property as what's proposed here today?

3 MR. ERVIN: We initially, my wife and I initially
4 bought this property in late 2016 with the full goal and
5 purpose of developing this site into a, a senior housing, a
6 senior housing development in Clinton, as we understood at
7 the time when we acquired the land that there, that was
8 something that sorely missing and needed in that community.
9 We, you know, had that one goal and one purpose in mind and
10 as Ms. Dillon said early in her testimony, we reached out to
11 Housing Initiative Partnership to work with them as we had,
12 you know, a relationship with them that goes back many years
13 to develop, you know, to help work with us to develop the
14 property.

15 MR. TEDESCO: And did you partake any community
16 outreach associated with this proposal?

17 MR. ERVIN: Absolutely.

18 MR. TEDESCO: And Madam Examiner, Mr. Ervin put
19 together a memorandum which is Exhibit 32 in the record. We
20 would ask for that to be accepted into the record which is
21 an outline or a memo of the extensive outreach that Mr.
22 Ervin undertook for this application.

23 MS. NICHOLS: So accepted.

24 (Hearing Exhibit No. 32 previously
25 marked for identification was

1 received into evidence.)

2 MR. TEDESCO: And not to go through it in overly
3 detail because I think it speaks for itself, Mr. Ervin, but
4 could you just you know outline briefly and describe your
5 outreach efforts in this matter?

6 MR. ERVIN: Yes. It initially started right after
7 we acquired the property. We acquired the property in late
8 2016, though it shows in the record maybe 2017. But we
9 acquired the property around that time and early on just in
10 the matter of doing you know random acts of property
11 maintenance for the property we would engage the community
12 at a very informal level and explain to them the reason that
13 we were the new owners, that we as, we bought the property
14 from Prince George's County Government, it had been a vacant
15 lot for 30 plus years. We informed them at the time that
16 they would stop, hey you know we're, we're, we bought this
17 property and our whole goal is to develop this property into
18 senior housing for the community. That was how we worked
19 with them informally and we did that, you know, for a number
20 of years up until 2019 and it became more formal in the
21 sense that we would engage the local community,
22 stakeholders, Ms. Maryann Dillon mentioned that we along
23 with HIP and Bank of America presented formally to the
24 District 5 Coffee Club, in person meetings with the coffee
25 club to present that project. We also, I personally also

1 went to each community, well not each, I went to multiple
2 homes that are, that, multiple residents that live adjacent
3 to the property and door knocked. This is of course pre-
4 COVID to tell them, to introduce myself and introduce my, my
5 company, Paralex Development Group as a development entity
6 about the project and, and be more formal and say look, we
7 are looking to do, develop this, you've seen me on the site,
8 you know, fixing the site, you know, keeping the site in
9 good standing, doing maintenance requirements or what have
10 you and letting them know that we are looking to develop
11 this site and it's something that we're working towards, how
12 do you feel about this. And from, from the most part we got
13 an overwhelming good positive response saying what we, or
14 from residents agreeing to what we already knew was that
15 that's something that needed. Again, that property had been
16 a lot for over 30 plus years and, and, and really had not
17 been used in its, its full potential.

18 MR. TEDESCO: And --

19 MR. ERVIN: We also --

20 MR. TEDESCO: Go ahead.

21 MR. ERVIN: Oh, I'm sorry.

22 MR. TEDESCO: No, go ahead.

23 MR. ERVIN: No, we also, we also, you know, this a
24 lot of the engagement we did face-to-face was pre-COVID.

25 Again, you know post COVID we, we made contact with various

1 stakeholders in the county via e-mail, via calls to let them
2 know to keep them abreast of everything that was going on.
3 To let them know that we were still moving forward despite
4 any hurtles that were happening as, as to the COVID. We are
5 committed to making this project a success and that
6 continues to go on even up until, up until the most recent
7 time of you know April, spring of 2021.

8 MR. TEDESCO: And Mr. Ervin, have you reviewed the
9 statement of justification that was prepared in this case,
10 Exhibit 4?

11 MR. ERVIN: Yes.

12 MR. TEDESCO: And in addition to your testimony
13 here today, do you further incorporate and adopt that
14 justification as your testimony?

15 MR. ERVIN: Yes.

16 MR. TEDESCO: And are you familiar with the
17 Technical Staff Report, Exhibit 15, in this matter by Park
18 and Planning?

19 MR. ERVIN: Yes.

20 MR. TEDESCO: And do you agree with the conditions
21 and findings contained therein?

22 MR. ERVIN: Yes.

23 MR. TEDESCO: And the same questions I asked Ms.
24 Dillon if this application is granted, is your intention to
25 construct the improvements in accordance with the Special

1 Exception Site Plan?

2 MR. ERVIN: Yes, absolutely.

3 MR. TEDESCO: And is it also your intention to
4 operate the proposed facility in accordance with all
5 applicable licenses, permits and in accordance with the
6 representations contained in your testimony here today?

7 MR. ERVIN: Yes.

8 MR. TEDESCO: No further questions, Madam
9 Examiner.

10 MS. NICHOLS: Mr. Brown?

11 MR. BROWN: Thank you, Mr. Ervin. You answered
12 the questions I had about the Paralex Development and your
13 current owner LLC's.

14 MR. ERVIN: Sure.

15 MR. BROWN: Another one I had was when the
16 property was purchased in 2016/2017 from the county, was
17 that from the Redevelopment Authority or was that a surplus
18 property purchase?

19 MR. ERVIN: It was a surplus property purchase.

20 MR. BROWN: Okay. All right. No other questions.
21 Thank you.

22 MR. TEDESCO: And Mr. Brown, while Mr. Ervin was
23 testifying I did go back through and Exhibit 13 does contain
24 all the affidavits that we submitted. I noticed that Mr.
25 Ervin signed one that was on behalf of Schultz Road LLC In

1 Care Of Housing Initiative Partnership that Ms. Maryann
2 Dillon also signed. So I do think we probably should
3 include an affidavit for 8230 Schultz Road LLC Care of
4 Paralex Development. So we'll have that, I mean although
5 Mr. Ervin signed it with HIP, I think the intention was for
6 that one to be for Paralex. It is a negative affidavit but
7 I think just for the clarity of the record we will have that
8 submitted later today.

9 MR. BROWN: Great. Thanks.

10 MR. TEDESCO: Yes. No, thank you. Madam
11 Examiner, that would be all the questions I have for Mr.
12 Ervin and we would be prepared to call Barry Casin (phonetic
13 sp.) as our next witness.

14 MS. NICHOLS: All right. Thank you, Mr. Ervin and
15 Mr. Casin, thank you very much. I need to ask that you
16 raise your right hand, sir. Thank you.

17 MR. CASIN: Good morning, Madam Examiner.

18 MS. NICHOLS: Do you solemnly swear or affirm --

19 MR. TEDESCO: (Indiscernible) okay. I'm sorry, I
20 was just waiting for them to mute. Thank you.

21 MS. NICHOLS: Okay. Mr. Casin, do you solemnly
22 swear or affirm under the penalties of perjury in the matter
23 now pending to tell the truth, the whole truth and nothing
24 but the truth?

25 MR. CASIN: I do.

1 MS. NICHOLS: Thank you. Please state your name
2 and address for the record.

3 MR. CASIN: Barry Michael Casin. My address is
4 11721 Woodmore Road, Suite 200, Mitchellville, Maryland
5 20721.

6 MS. NICHOLS: Thank you.

7 MR. TEDESCO: Just for clarification, Mr. Casin,
8 Madam Examiner and Mr. Brown is being offered as a fact
9 witness. Although we did submit a copy of his CV which has
10 been marked as Exhibit 37, we are not offering Mr. Casin as
11 an expert, but his CV is in the record already. And Madam
12 Examiner, just for process, the next four witnesses, five
13 witnesses are technical in nature so we'll try to go through
14 them quickly, if we can, so I appreciate your indulgence.

15 Mr. Casin, was your firm employed by the applicant
16 to perform certain services associated with the subject
17 property?

18 MR. CASIN: Yes.

19 MR. TEDESCO: And what services did Ben Dyer and
20 Associates perform in this matter?

21 MR. CASIN: So we, we, a civil engineering and
22 land planning and surveying.

23 MR. TEDESCO: And did you or someone under your
24 supervision prepare the Special Exception Site Plan and
25 Landscape Plan in this case?

1 MR. CASIN: Yes.

2 MR. TEDESCO: Were these plans recently amended in
3 response to the Technical Staff Report?

4 MR. CASIN: Yes, they were, they were partially
5 amended. We are still making additional amendments based on
6 the Preliminary Plan.

7 MR. TEDESCO: And Madam Examiner, we had the
8 amended Site Plan marked as Exhibit 39, we would ask for
9 that to be accepted.

10 MS. NICHOLS: So accepted.

11 (Hearing Exhibit No. 39 previously
12 marked for identification was
13 received into evidence.)

14 MR. TEDESCO: And Mr. Casin, I know not all of the
15 recommended conditions have been addressed in Exhibit 39,
16 but could you identify the two that have been for the
17 Examiner?

18 MR. CASIN: Yes --

19 MS. NICHOLS: I'm sorry, Mr. Tedesco did you say
20 they all have?

21 MR. TEDESCO: No, I'm sorry not all of the
22 conditions have been address.

23 MS. NICHOLS: Okay. Thank you.

24 MR. TEDESCO: Mr. Casin, could you identify which
25 conditions have been addressed in Exhibit 39?

1 MR. CASIN: Condition 1B and Condition 1N.

2 MR. TEDESCO: That's B as in boy?

3 MR. CASIN: B as in boy, correct.

4 MR. TEDESCO: And just to be clear, Condition 1B
5 and 1N as in Nancy have been addressed in Exhibit 39?

6 MR. CASIN: That's correct.

7 MR. TEDESCO: And to your knowledge all the
8 remaining conditions are still outstanding?

9 MR. CASIN: That is correct.

10 MR. TEDESCO: Could you just briefly describe the
11 subject property for the Hearing Examiner?

12 MR. CASIN: Absolutely. So the, the subject, the
13 subject site is located as has been said in Clinton,
14 Maryland. It's on at the intersection of Schultz Road and
15 Spring Brook Lane just, just a little bit southwest of
16 Maryland Route 5 Branch Avenue. It is, it is basically
17 surrounded, the property is surrounded by a storm water
18 management pond that's owned by the State Highway
19 Administration to the, to the east. Again, Branch Avenue in
20 a commercial real estate building is to the, to the north.
21 There is to the, to the, to the south or west of it is a
22 residential properties as you cross, as you cross the
23 floodplain and, and stream and then to the, to the west
24 there is a residential, residential property.

25 MR. TEDESCO: And did you make a personal

1 inspection of the property?

2 MR. CASIN: Yes, I did.

3 MR. TEDESCO: And could you describe the current
4 nature of the property?

5 MR. CASIN: It is a, it is a vacant property as
6 has been stated. It is for the most part, it's, it's
7 cleared up or down to the woodland area that is adjacent to
8 the floodplain area and Stream Valley Pea Branch Stream,
9 stream that runs through it that is to the southwest on, on
10 the property.

11 MR. TEDESCO: And referencing Exhibit 38 and 39,
12 39 being the Amended Site Plan and I believe 38 is the
13 Rendered Site Plan, yes the Rendered Site Plan. Could you
14 just describe the proposed improvements associated with this
15 application?

16 MR. CASIN: The proposed, the proposed
17 improvements are at, off of Schultz Road where there is an
18 existing driveway entrance that is going to be improved to a
19 commercial size driveway entrance. You would circulate into
20 the site through the parking, a parking lot. It's about a
21 60 acre, excuse me, 60 space parking area. The, the
22 building is setback to the, to the rear of the, to, to,
23 towards the rear of the site and there would be, there would
24 be the building of about eight, 85,000 plus square foot
25 building four story building, apartment, apartment building.

1 The site will have storm water management that will have the
2 other site lighting, landscaping improvements. There is,
3 there is also a patio area in the rear of the property and a
4 transformers for the transformer and generator pads will be
5 to the west of the, the west end of the property and along
6 with a small, a small retaining wall, screening wall for
7 those particular units to, to screen those units.

8 And the, there is, the circulation I should go
9 back to the front. So the, in the circulation there's a
10 nice circulation area, a drop-off area in the, in the every
11 front of the building so to, to allow for good pedestrian
12 access or pedestrian circulation and there is --

13 MR. BROWN: Is it possible that we could put up
14 the Site Plan while Mr. Casin is going through the
15 description?

16 MR. TEDESCO: Yes, I was actually going to suggest
17 that. So I think probably the best exhibit would be Exhibit
18 38 which is the rendered plan. I can pull it up on my
19 screen if it would be quicker.

20 THE CLERK: I'm getting it, thank you.

21 MR. TEDESCO: I know you've got a lot of paper in
22 front of you, Fatima.

23 THE CLERK: Do you also need the exhibit?

24 MR. TEDESCO: Yes.

25 THE CLERK: Okay.

1 MR. TEDESCO: Mr. Brown, does that look, is that
2 okay or do you prefer the actual Site Plan?

3 MR. BROWN: That's fine.

4 MR. TEDESCO: Okay. Mr. Casin, I think you left
5 off talking about the circulation and the parking, the
6 access.

7 MR. CASIN: So yes, so in the, in the very front,
8 very front of the building there is a nice area of, of
9 circulation through here. There is, there is some, will be
10 some seating along the, seating along the front. Bicycle,
11 bicycle rack in the front. Nice circulation from the, from
12 the actual building itself out to Schultz Road through,
13 through a, through five foot sidewalk circulation and just
14 a, just a, a really, really well organized, well laid out
15 site.

16 MR. TEDESCO: And Ms. Bah, if you could put up
17 Exhibits 29, please. So this is, Mr. Casin, it's loading
18 but that's the three-dimensional view of the proposed
19 building?

20 MR. CASIN: Yes.

21 MR. TEDESCO: I don't know if it loaded on
22 everyone else's side but, and that was the circulation and
23 the seating area was better depicted there.

24 MR. CASIN: Yes, this from, from what I, from
25 every, from memory, yes, that's correct, that's --

1 MR. TEDESCO: (Indiscernible) okay.

2 MR. CASIN: -- that it shows everything there.

3 MR. TEDESCO: Thank you, Fatima. You could
4 probably go back to Exhibit 38, since that one is having
5 trouble loading. Mr. Casin, you're familiar with the Prince
6 George's County Landscape Manual, correct?

7 MR. CASIN: Yes, I am.

8 MR. TEDESCO: And does this site conform to all
9 the requirements of the Landscape Manual?

10 MR. CASIN: Yes, it does.

11 MR. TEDESCO: Does it conform to the requirements
12 of Part 11 which is the parking regulations in the Zoning
13 Ordinance?

14 MR. CASIN: Yes, it does.

15 MR. TEDESCO: And the site is also, I don't know
16 if I mentioned it at the onset but do you recall the zoning
17 of the property?

18 MR. CASIN: This is R-80.

19 MR. TEDESCO: And is it also within the M-I-O-Z
20 for height, Military Installation Overlay Zone?

21 MR. CASIN: Yes, it is.

22 MR. TEDESCO: And I know there's some debate, but
23 do you know if the proposed building is within the maximum
24 height allowed by the M-I-O-Z for height?

25 MR. CASIN: Yes. In, in accordance with

1 discussions that we've had with staff, well the Technical
2 Staff Report, yes it it, it does, it is within that
3 requirement.

4 MR. TEDESCO: And are you familiar with Section
5 27-337 of the Zoning Ordinance?

6 MR. CASIN: Yes. Yes.

7 MR. TEDESCO: And Madam Examiner, with your
8 indulgence, I just want to highlight in accordance with
9 subparts (A) (4) the height lot coverage density frontage
10 yard and green area requirements including restrictions on
11 the location, height of accessory buildings as specified for
12 the zone in which the use is proposed shall not apply to
13 uses or structures provided in the section. The dimensions,
14 percentages and densities shown on the approved Site Plan
15 shall constitute the regulations for development other than
16 getting a special exception. Mr. Casin, are all those
17 items, the dimensional percentages, densities, et cetera,
18 provided on the Site Plan?

19 MR. CASIN: Yes, they are.

20 MR. TEDESCO: And has DPIE reviewed and or
21 approved the Storm Water Site Development Concept Plan?

22 MR. CASIN: Yes, they have.

23 MR. TEDESCO: And what does that Storm Water
24 Concept Plan require?

25 MR. CASIN: It's a private onsite storm drain

1 storm water management plan that would provide for
2 environmental, environmental site design, and our
3 environmental site design would, would, our technics that
4 we're using are micro bioretention for water quality and
5 channel protection. And we are also utilizing underground
6 storage pipes and system for the 100 year, to meet the 100
7 year storm requirements.

8 MR. TEDESCO: As it relates to the actual Site
9 Plan, does the plan that Ben Dyer and Associates prepared
10 conform to the requirements of 27-337?

11 MR. CASIN: Yes it does.

12 MR. TEDESCO: And just a few more questions. Are
13 sidewalks proposed in this application?

14 MR. CASIN: Yes, they are. They're, they're
15 proposed both along the frontage of Schultz Road, it's a
16 basically let's say 10, a 10 foot shared use trail and also
17 internally there are 5 foot wide sidewalks that bring, that
18 come from Schultz Road into the property and to the, to the
19 very, to the front of the building.

20 MR. TEDESCO: Are there any proposed easements
21 associated with the trail network on the property?

22 MR. CASIN: There is a proposed trail easement in
23 the, in the floodplain area for the Pea Branch Trail.

24 MR. TEDESCO: And is there any dedication along
25 any frontages required in the Preliminary Plan of

1 Subdivision that was recently approved?

2 MR. CASIN: Yes, there was a, there was a
3 dedication of a little bit more 1,900 square feet to create
4 a 60 foot wide right-of-way. The existing right-of-way for
5 Schultz Road as platted is a 50 foot right-of-way and so the
6 applicant had to dedicate the, some additional, additional
7 width and it varies, but additional width of right-of-way to
8 meet their requirement for the, for half of the 60 foot wide
9 right-of-way.

10 MR. TEDESCO: I have no further questions.

11 MS. NICHOLS: Mr. Brown?

12 MR. BROWN: Mr. Casin, I know you're not qualified
13 as an expert in this case, but you've given a couple of
14 opinions that are more appropriate to an expert. I guess my
15 question is Mr. Tedesco, I'm going to assume that Mr.
16 Ferguson is going to testify on the specifics of how this
17 application complies with 27-337, is that correct?

18 MR. TEDESCO: Yes, correct. And Mr. Casin's
19 testimony was in reference to the factual determinations of
20 the Site Plan as it relates to the requirements for certain,
21 certain requirements that be shown on the Site Plan,
22 particularly the density, the height and things of that
23 sort. So we just wanted to have his testimony in that
24 regard.

25 MR. BROWN: All right. I'll hold my questions for

1 Mr. Ferguson and he can ruminate on this while he's waiting
2 to testify. The issue of 27-337(a) as to whether or not
3 that is a prerequisite to any development of this property,
4 I'm not saying it is, but I'd like to have something in the
5 record that clarifies that. All right.

6 MR. TEDESCO: So --

7 MR. BROWN: I guess my question is this. 27-
8 337(a) staff says on page 13 is not applicable because this
9 property was not formally used as a public school. But as I
10 read that section and the following sections of 337 it would
11 appear that that is an initial hurdle that must be overcome
12 before the property may be developed for elderly housing.
13 But I'm not saying that that is the case. I'd like to have
14 the planner explain that as opposed to saying what staff has
15 indicated that 337(a) is not applicable. Why not?

16 MR. TEDESCO: Well, yes, I mean I would cite you
17 to subpart (b)(4)(A) which says the requirements of 1, 2, 3
18 and 4 of A shall be met. And I think 1, 2, 3 and 4 are not
19 qualifying with respect to the callout of A, but just the
20 particular items of 1 through 4. But Mr. Ferguson can
21 elucidate and testify to that.

22 MR. BROWN: All right.

23 MR. TEDESCO: Yes. No, fair enough.

24 MR. BROWN: No questions of Mr. Casin, it's good
25 see you.

1 MR. CASIN: Good to see you too, sir.

2 MR. TEDESCO: Moving right along, if I may, our
3 next witness would be Michael Staiano.

4 MS. NICHOLS: Mr. Staiano?

5 MR. STAIANO: Good morning.

6 MS. NICHOLS: Good morning.

7 MR. STAIANO: Good to see you.

8 MS. NICHOLS: I need to swear you in, sir. Thank
9 you. Do you solemnly swear or affirm under the penalties of
10 perjury in the matter now pending to tell the truth, the
11 whole truth and nothing but the truth?

12 MR. STAIANO: I do.

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

15 MR. STAIANO: It's Michael Staiano, 1923 Stanley
16 Avenue, Rockville, Maryland.

17 MS. NICHOLS: And you have previously qualified as
18 an expert --

19 MR. STAIANO: Yes, I have.

20 MS. NICHOLS: -- before the Examiner, and you will
21 continue in that capacity today.

22 MR. STAIANO: Okay. Very good.

23 MR. TEDESCO: Thank you, Madam Examiner. For the
24 record, Mr. Staiano's CV is marked as Exhibit 33. We'd ask
25 for that to be included into the record.

1 MS. NICHOLS: Accepted.

2 (Hearing Exhibit No. 33 previously
3 marked for identification was
4 received into evidence.)

5 MR. TEDESCO: Thank you. Your indulgence, Madam
6 Examiner. Mr. Staiano, are you generally familiar with the
7 application before the Hearing Examiner this morning?

8 MR. STAIANO: I am.

9 MR. TEDESCO: And are you familiar with the areas
10 surrounding the subject property?

11 MR. STAIANO: Yes.

12 MR. TEDESCO: Are you familiar with the
13 applicant's proposed development for the subject property?

14 MR. STAIANO: Yes.

15 MR. TEDESCO: And have you examined the
16 applicant's Site and Development Plans?

17 MR. STAIANO: Yes, I have.

18 MR. TEDESCO: And did you prepare a noise analysis
19 regarding the traffic noise exposure and or gradient
20 estimations associated with the Maryland 5 and it's impacts
21 on the proposed development?

22 MR. STAIANO: Yes.

23 MR. TEDESCO: And why did you do that?

24 MR. STAIANO: Well, I was contacted over a year
25 ago regarding the issues of highway traffic noise on the

1 site and I proceeded to do analyses that would address the
2 concerns for that.

3 MR. TEDESCO: And Madam Examiner, marked as
4 Exhibit 16 A through D are various successive analyses that
5 Mr. Staiano did. Mr. Staiano, could you take us through
6 real quickly why there are three, and I think we need to
7 have one that we, it may be in the binder, I couldn't find
8 it. But there's one dated August 11, 2020, October 28, 2020
9 and January 18, 2021. Mr. Staiano, can you advise us or
10 tell us why there are three different versions of the
11 analysis?

12 MR. STAIANO: Okay. Before I go into that --

13 MR. TEDESCO: (Indiscernible).

14 MR. STAIANO: I'm sorry, could you just identify
15 which of those the three reports are what their exhibit
16 numbers are?

17 MR. TEDESCO: Yes, so Exhibit 16A is the August
18 11, 2020, the HUD analysis. 16B is the October 28th
19 soundproofing analysis. And what we would ask to be added
20 is 16E as in Edward which is the noise exposure gradient
21 dated January 18, 2021.

22 MR. STAIANO: Okay. Now your question again was?

23 MR. TEDESCO: Could you explain why there's three?

24 MR. STAIANO: Okay. The three is a progression
25 essentially.

1 (End of Tape One)

2 MR. STAIANO: The first report, that was 16A, that
3 was a HUD exposure analysis. That provided an initial
4 assessment of what the exposures were on the site, using
5 simple HUD procedures. The second report followed from the
6 first in that the first report indicated that it would be
7 desirable to have soundproofing added to the proposed
8 structure and that analysis was to determine what those
9 features might be.

10 And finally, the third report that's Exhibit 16E,
11 that was the result of staff questions regarding the
12 exposure to the patio area at the rear of the building.

13 MR. TEDESCO: And what were, just to summarize,
14 what were the conclusions of each of those reports?

15 MR. STAIANO: Okay. Well, without going into the
16 details of the reports themselves, but to answer your
17 question about the conclusions, the first report, 16A, found
18 that per the HUD criteria and per the, which requires, or
19 identifies 65 decibels day night average sound level as
20 being exposure to that normally unacceptable, exposure to
21 that and above. And using the HUD procedure which is a 40 -
22 year-old procedure and very conservative, about 5 to 10
23 decibels high in the estimate that it produces, it indicated
24 that the 65 zone covered the entire site. And then I
25 analyzed what the exposure was at the closest point of

1 approach of the proposed structure and calculated using that
2 procedure that was 70 decibels. Since the levels were over
3 70, so that would indicate that mitigation, the interior
4 mitigation was necessary as a multifamily use which is
5 primarily interior exposures. And that requires a 45
6 interior level.

7 So the second study, the soundproofing analysis
8 Exhibit 16B evaluated does that requirement 45 decibel
9 interior requirement is it met, and if not, what is
10 necessary to meet it. So using the calculated 70 decibels
11 exterior I went through a process which is detailed in the
12 report to determine what was necessary. I found that there
13 was some mitigation desirable, simply stated, enhancement to
14 some of the windows and enhancement to one of the proposed
15 wall types. With those modifications incorporated in the
16 plan that would find that the 45 decibel recommended limit
17 is met.

18 And then finally, the final study, that was a
19 result of a question from staff. The initial study that we
20 did qualitatively addressed the exterior noise exposure to
21 the patio area at the rear of the structure and just
22 qualitatively stated that the exposure at the patio area
23 would be well shielded by the building. Without going into
24 detail, staff has requested a more rigorous analysis of that
25 where they could see contours. And that final report, 16E,

1 was the result of that. In 16E we used a much more up to
2 date methodology procedure known as transportation noise
3 model CNM, the latest version of which was released less
4 than two years ago. It's much more up to date and this
5 provided a means of calculating noise exposure contours.
6 Being much more up to date, it's more accurate and the
7 contours show actually two things. One is that the exposure
8 to the rear patio area is very low as indicated
9 qualitatively right from the onset and probably in the range
10 of 50 to 55 decibels where the exterior criteria per HUD is
11 65. So it's 10 to 15 decibels within the allowable range
12 with one study.

13 I'd note sort of in addition to that, is that if
14 the gradient exposures and this was depicted by color bands
15 or examined, would it would indicate that or can be seen
16 that the exposure to the structure itself the exterior
17 exposure to the structure as it's facing the roadway is much
18 less than the exposure that was calculated using the 40
19 year-old HUD procedure. So that would further indicate that
20 the building is well mitigated both interior as well as
21 exterior. And that concludes what I have on that.

22 MR. TEDESCO: Just one final question, Mr.
23 Staiano, from the perspective of environmental acoustics, in
24 your expert opinion, will the noise exposure gradients cause
25 any adverse effects to the future residents of this

1 development?

2 MR. STAIANO: They should not, it's well within
3 acceptable levels.

4 MR. TEDESCO: No further questions.

5 MS. NICHOLS: Mr. Brown?

6 MR. BROWN: Good morning, Mr. Staiano, how are
7 you?

8 MR. STAIANO: Very good, thank you. And yourself?

9 MR. BROWN: Good to see you.

10 MR. STAIANO: Yes.

11 MR. BROWN: Fatima, can we put up on the exhibit,
12 the screen and Mr. Staiano, you can tell us which exhibit it
13 is that shows the noise contours on the property?

14 MR. STAIANO: That would be Exhibit 16E and it
15 would be page 4.

16 MR. TEDESCO: Maybe page 5.

17 MR. STAIANO: Oh, okay. It'd be page 5 of the
18 PDF.

19 THE CLERK: This is the only page.

20 MR. TEDESCO: Yes, that's it. We just need it
21 centered.

22 THE CLERK: Okay. That's it.

23 MR. STAIANO: If you can go to full page view of
24 the PDF with a control L might make it easier. Very good.

25 MR. BROWN: All right. That's good. So Mr.

1 Staiano, most of the noise that's impacting this property is
2 coming from the roadway, which roadway is that? Is that
3 Branch Avenue or Schultz Road?

4 MR. STAIANO: That's Branch Avenue.

5 MR. BROWN: All right. And the red indicates what
6 decibel level?

7 MR. STAIANO: That indicates 80, and let me just
8 elaborate on that a little bit. This is shown by bands of
9 color and the reason why those are bands of color is that
10 there is uncertainty when we do these predications, that's
11 inherent in just about any calculation of any sort. And the
12 band indicates that somewhere within a color zone that sound
13 level exists. So where you have the deep red that's 80
14 decibel level is somewhere within that zone, similarly the
15 75 with the pale red, and so on. Where you see 65 that is
16 not all at 65, it's 65 somewhere within the zone so that it
17 ranges from somewhat about 65 to somewhat below 65. So yes,
18 the red is 80 and that's (indiscernible) 80 decibel exposure
19 is.

20 MR. BROWN: And that's the crux of my inquiry
21 here. If, and you can tell me if the HUD requirement was 65
22 decibel level for the interior or is that for exterior?

23 MR. STAIANO: 65 is the exterior limit.

24 MR. BROWN: And what is the exterior limit under
25 Komar (phonetic sp.)?

1 MR. STAIANO: That's 65, it's a different metric
2 now. Komar is 65 daytime and 55 at nighttime, whereas the
3 HUD criteria is different, in a sense this is what's called
4 a day night average sound level or an LDN which is an
5 average of daytime and nighttime exposures. With respect to
6 the roadway it includes traffic, characteristics both during
7 the day and night.

8 MR. BROWN: So tell me why did you use the HUD
9 requirement, are you telling us that HUD regulation or the
10 federal regulations preempt Komar on this issue?

11 MR. STAIANO: They're really addressing two
12 different issues. The HUD criteria is a land use
13 compatibility metric and it's been related to human exposure
14 of what we call dosh response, how do people you know
15 respond to sound, what levels of day night average sound
16 level people would find highly annoyed. And that was the
17 basis of the HUD criteria to begin with identifying 65.
18 Komar is specific to a, it's more of a noise source specific
19 issue. For example, if a piece of machinery is operating on
20 a site and there is a residential use nearby, then that
21 would be the metric that the noise exposure from that piece
22 of equipment would be compared to and determined whether
23 it's acceptable or not.

24 MR. BROWN: But isn't it true that both HUD and
25 Komar regulations concerning noise are applicable?

1 MR. STAIANO: No. That in fact Komar explicitly
2 excludes noise on public rights-of-way, highway traffic
3 noise.

4 MR. BROWN: All right. Well if you can put it in
5 the record, I know you testified to that before in other
6 cases, the section of Komar that exempts the state highway
7 or (indiscernible) traffic from this analysis.

8 MR. STAIANO: So you're saying you'd like me to
9 provide identification of what that section is of Komar?

10 MR. BROWN: Yes, exactly.

11 MR. STAIANO: Okay.

12 MR. BROWN: In addition, were your measures done
13 under HUD, were those real time measurements or were they
14 average measurements?

15 MR. STAIANO: That would be, well, they're not
16 measurements, this is all computational, which is the
17 standard HUD procedure. This is an average and this would
18 be that average over the 24 hour period of a day.

19 MR. BROWN: That's what I thought. So you cannot
20 go out onto the site and take any measurement concerning
21 noise levels, is that correct?

22 MR. STAIANO: That is correct.

23 MR. BROWN: And the model that you used, you said
24 was created or began to use within the last two years, is
25 that correct?

1 MR. STAIANO: Before the noise contours that
2 you're seeing on the screen right now, that that's TNM model
3 that was produced, it's called TNM 3.0, and that was
4 released about a year and a half ago.

5 MR. BROWN: Did you put that in this record? I
6 didn't see the model, and I know those computer generated
7 figures can be voluminous, but did you put that in this
8 record?

9 MR. STAIANO: Yes, if we look on the preceding
10 page, let's see, yes, the preceding page it's reference,
11 reference 3, that's the Hastings Report.

12 MR. BROWN: All right. So with regards to what
13 I'm going to call yellow, the 65 DBA listed on the exhibit
14 that's on the screen, the differentiation or the limits, if
15 you will, of what the decibel level could potentially be
16 there, can range from, is it a median of 65 or is that base?

17 MR. STAIANO: No, you know, let's say in the old
18 days if we wanted to calculate a 65 sound level contour, all
19 right, not the old days so much as in the incorrect way of
20 doing it, you might think that line if it were drawn would
21 be in the middle of that what's identified as 65, the color
22 band.

23 MR. BROWN: Right.

24 MR. STAIANO: But the reality is that that nice
25 sharp line is not really known like that. So think of the

1 65 color kind of a yellow orange, as being that line. So
2 it's wide because there's uncertainty associated with it.

3 MR. BROWN: And that's the discrepancy I'm trying
4 to determine --

5 MR. STAIANO: Right.

6 MR. BROWN: -- is what's the range of that orange
7 or that yellow?

8 MR. STAIANO: Well, you mean width wise? I'm not
9 sure I.

10 MR. BROWN: Well, yes, in other words, and we'll
11 call it yellow. If the yellow is 65 decibels anywhere
12 within that yellow, pursuant to your testimony earlier, it
13 can go up to as much as maybe 75 or it could go down to 40,
14 is that what you're telling us?

15 MR. STAIANO: Given the certainty that we have
16 with these procedures, yes.

17 MR. BROWN: All right. So tell me what is the
18 range then for that yellow? What is the minimum, what is
19 the maximum decibel that that model is telling us the noise
20 generation or impact would be on that property?

21 MR. STAIANO: Let me, the western most edge of
22 that yellow band.

23 MR. BROWN: And west being to the left of the --

24 MR. STAIANO: That's correct.

25 MR. BROWN: All right.

1 MR. STAIANO: Would indicate the furthest extent
2 that the 65 DB exposure is expected to or may extend onto
3 the site. I don't know if that doesn't answer your
4 question, I believe explicitly, but I think that's the best
5 answer I can give you to that. Did that make sense for you,
6 Stan?

7 MR. BROWN: So are you telling me then, again what
8 is the maximum range in that orange level? What's the
9 maximum DBA?

10 MR. STAIANO: Yes, I think it's where, the way to
11 think of that band is that it's somewhere, I know it may
12 seem like I'm avoiding your question, but the yellow
13 indicates that somewhere within that band it's 60. So it's
14 not a maximum or a minimum, it's just that's the spatial
15 range that given the confidence we have in our modeling
16 techniques 65 is expected to be found.

17 MR. BROWN: Right. So I mean again what you're
18 telling me though, Mr. Staiano, is that 65 is an average or
19 maybe even a median that could be found within that yellow.
20 But you haven't told me what is the maximum decibel level
21 that you can expect to find within that yellow.

22 MR. STAIANO: That's a question that's not
23 answerable with the technique we're using here.

24 MR. BROWN: Right. And if you were to use the
25 Komar technique that would be answerable, correct?

1 MR. STAIANO: No, it would not be.

2 MR. BROWN: It would be answerable if you did a
3 noise study out on the site, is that correct?

4 MR. STAIANO: Well I could obtain a number. Komar
5 is a short term measurement and that --

6 MR. BROWN: Let's ignore Komar for a moment. I'm
7 not talking about a shotgun measurement. I'm talking about
8 a real time measurement. So it is possible for you to take
9 a noise meter out on the site and measure it at certain
10 points to determine what the real time measurements are
11 today, is that correct?

12 MR. STAIANO: That's correct, sure.

13 MR. BROWN: And that would tell you specifically
14 that on a given day the decibel level at various points on
15 that property are X.

16 MR. STAIANO: That would be correct, yes.

17 MR. BROWN: Why didn't you do a noise study? That
18 is an actual noise study on the property.

19 MR. STAIANO: Well there's several reasons. First
20 of all, to do a measurement per Komar, the results that you
21 get using the Komar techniques are not relatable to human
22 response, human annoyance to noise from highway noise
23 sources. So it wouldn't really tell you the acceptability
24 of the sound. Secondly, although we could do measurements
25 that would be produce a day night average sound level, the

1 measurements themselves also have uncertainties and
2 limitations so that the variability of those measurements
3 have, you know, would exist as well. HUD prefers to see
4 results per their own procedure because they understand what
5 the and limitations of their procedure are. So our analysis
6 that we performed here was derived from that process that
7 HUD find. And we ultimately use the TNM modeling because
8 HUD does not provide a reliable or a means at all to
9 estimate what the sound shielding benefit of the structure
10 would be to the patio. And that had a different result
11 because of its greater sophistication but it is consistent
12 with the HUD analysis process or philosophy.

13 MR. BROWN: I guess the problem here that I see is
14 this. One, there's a requirement by HUD to determine noise
15 level and you've done that study based upon HUD's particular
16 model and you've told me although you don't know the answer,
17 that there's a 65 decibel level within the yellow layer.
18 And for the sake of discussion I'm going to assume you've
19 complied with HUD's requirement.

20 MR. STAIANO: Yes.

21 MR. BROWN: But then told me that Komar is not
22 applicable with regards to this property because it does not
23 concern traffic generated to the right-of-way being a
24 requirement to determine the day night average.

25 MR. STAIANO: Correct.

1 MR. BROWN: And then the third issue is, and this
2 is the reason for my inquiry here, is that this is a special
3 exception. A special exception requires that the property
4 not have any adverse impacts on the community and/or adverse
5 impacts on the future residents of the property. And so
6 there's a requirement for whether or not the noise that is
7 generated on Branch Avenue is going to have an adverse
8 impact on this property regardless of whether or not you
9 have complied with HUD's newest requirement or Komar's
10 requirement. And so if you have not done a study to tell us
11 what the noise impact would be on this property, you
12 probably haven't answered that issue.

13 MR. STAIANO: Stan, actually, I'm glad you did
14 your summary just now because I overlooked the most critical
15 difference in the HUD and Komar. In that Komar applies to a
16 source of noise. If there was a piece of equipment on the
17 proposed site radiating out Komar would apply to it. The
18 source here is external to the site and it is not part of
19 the proposal and it absolutely applies in no way to this
20 site. This site is not making noise, it's the highway
21 that's making noise. So the Komar applies is totally
22 irrelevant to the site. It deals with levels but it's
23 totally irrelevant to the site with respect (indiscernible).

24 MR. BROWN: I agree 100 percent. But, my further
25 inquiry though is to drill down a little bit more is that

1 roadway will have an impact on the residents of this
2 property. And so is it not reasonable to understand what
3 the actual decibel level is as it impacts this property?

4 MR. STAIANO: The property is going to have no
5 significant change in the exposure to the community and you
6 could see that to some extent in the contours looking at the
7 gradient that's shown on the screen. You see the pale green
8 exposure is, well, let's step this back. If you look at the
9 other colors they are, they show a band that roughly
10 parallels the center line of the roadway. So as we go
11 further from the roadway and the colors go from red towards
12 green, the colors still maintain that similarity, roughly
13 parallel to the roadway. When we reach the orange, the
14 western most, the west most edge of the orange, the building
15 start to become a factor in that exposure. And if you see
16 when we finally get to the green that quieter zone, the 55
17 zone for example, gets much closer to the roadway and that's
18 because of the shielding of the building.

19 MR. BROWN: And to me that's problematic. You're
20 basically saying what I'm trying to get you to understand.
21 The building and the residents in that building and the
22 exterior parts of that building are absorbing the sound.

23 MR. STAIANO: Well they're blocking the sound, but
24 so the sound is less --

25 MR. BROWN: (Sound.)

1 MR. STAIANO: -- yes, behind the building, yes,
2 and go ahead.

3 MR. BROWN: That's my point here.

4 MR. STAIANO: So the point is, the consequence is
5 that to the extent the building has an effect, it's making
6 it quieter to the community behind it --

7 MR. BROWN: (Sound.)

8 MR. STAIANO: -- and that's demonstrated by the
9 fact that the 55 zone shown in pale green gets closer to the
10 roadway immediately behind the building.

11 MR. BROWN: I'm not too much concerned about the
12 pale green. For the sake of discussion, the pale green is
13 part of the property?

14 MR. STAIANO: I'm not sure where the boundaries
15 are. That's probably true.

16 MR. BROWN: All right. But let's just focus on
17 residents within the building itself. The problem I have is
18 and you can answer this, I think you've answered it two or
19 three ways already, is there are requirements that you
20 cannot have residential properties that exceed a particular
21 decibel level. You seem to be telling me that Komar is not
22 applicable here, and I actually agree with that, and that
23 HUD is applicable. But then we are still having a traffic
24 that is causing a high decibel level at this property and
25 you haven't told me how you're going to deal with that

1 actuality. In other words, you've met HUD, Komar is
2 inapplicable, but there's still a negative impact on this
3 property from noise. And so you're not addressing that
4 impact.

5 MR. STAIANO: Well I believe I said that, but let
6 me reiterate it. Okay. There is an impact per the
7 assessment and as much as that, some of the building is
8 exposed above 65 decibels. That's an exterior exposure
9 limit. For a multifamily structure such as this, the use
10 will be interior. So the criterion then becomes translated
11 into what is the exposure to the people inside the building.
12 So the equivalent of a 65 decibel exposure outside
13 translates into a limit of 45 decibels inside. Again, day
14 night average --

15 MR. BROWN: Without any mitigation of the walls?

16 MR. STAIANO: Well, there is an assumption, think
17 of it as exterior interior equivalency. 65 outdoor is the
18 limit of acceptability, 45 indoor is the limit of
19 acceptability, essentially assumes that the walls provide 20
20 decibels of reduction. So then the question becomes is the
21 interior not greater than 45 day night average sound level
22 and so that's having identified in the first study that the
23 exterior is exposed above 65, we then needed to determine if
24 the proposed structure, the architecture of the proposed
25 structure will result in sound levels less than 45, not

1 greater than 45 inside. And that was the second study
2 that's Exhibit 16B.

3 So having done that, we concluded that with
4 certain mitigations the interior levels will be at or less
5 than 45. So that deals with the exposure to people inside
6 the building and that uses given that it's a multifamily
7 structure, that is the appropriate criterion. Now a
8 question was raised that yes there is an exterior use to the
9 building, the patio area at the rear, is that acceptable.
10 And for that reason we went through the analysis that you
11 see projected on the screen to determine what are the
12 exterior shallows (phonetic sp.) now the criterion again is
13 65, are those levels less than, not greater than 65. And
14 what we can see from that analysis, which is a very detailed
15 analysis, requires a calculation of sound levels at probably
16 thousands of points and those points are connected to get
17 the colors that you see in the slide. You can see from that
18 that the sound levels are probably 55 or perhaps even less.
19 So that says that the exterior levels where there's exterior
20 use are well within 65. So the requirements for acceptable
21 noise per HUD and as accepted by, entirely in my experience
22 with the county, are met both on the interior where that use
23 is multifamily and on the exterior where there would be a
24 usage in both applications. Does that answer your question
25 for you, Stan?

1 MR. BROWN: Well, you know, I guess if I was a
2 resident there with my aged ears, I wouldn't hear anything
3 above 65 anyway. So I don't have any additional questions.
4 Thank you.

5 MR. STAIANO: Okay. You're welcome.

6 MS. NICHOLS: Mister --

7 MR. TEDESCO: Madam Examiner, yes, thank you.
8 Just for clarification and to supplement that line of
9 questioning. Mr. Staiano, your exhibit, excuse me,
10 indulgence, your Exhibit 16B which was the soundproofing
11 analysis, did that make recommendations with respect to
12 mitigating the exterior noise levels interior to the
13 building?

14 MR. STAIANO: No. It's strictly addresses the
15 interior sound levels.

16 MR. TEDESCO: And let me repeat the question, Mr.
17 Staiano, and listen carefully. Does your Exhibit 16B dated
18 October 28, 2020 regarding soundproofing make any
19 recommendations with respect to mitigating the interior
20 noise from the exterior noise?

21 MR. STAIANO: Oh, I'm sorry. It deals, yes,
22 exactly with that. Interior sound levels as an experience,
23 given the outdoor exposure.

24 MR. TEDESCO: And given those recommendations it's
25 your opinion based upon the analysis and the modeling that

1 you've performed, that the interior noise levels would be
2 acceptable, meaning below 45 DBA interior noise, correct?

3 MR. STAIANO: Yes, that's correct.

4 MR. TEDESCO: And it's also your opinion based
5 upon the modeling and the fact that the building itself will
6 act as a mitigating factor to the exterior noise to the
7 patio area that the accessible decibel levels at the patio
8 will be achieved, correct?

9 MR. STAIANO: That's correct.

10 MR. TEDESCO: No more questions, thank you.

11 MS. NICHOLS: All right. Thank you very much.

12 MR. TEDESCO: We would call Mr. Curban Letham
13 (phonetic sp.).

14 MS. NICHOLS: All right.

15 MR. LETHAM: Hi, good morning.

16 MR. TEDESCO: Good morning.

17 MS. NICHOLS: Good morning, sir. I'm going to ask
18 you to raise your right hand, please. Thank you. Do you
19 solemnly swear or affirm under the penalties of perjury in
20 the matter now pending to tell the truth, the whole truth
21 and nothing but the truth?

22

23 MR. LETHAM: I do.

24 MS. NICHOLS: Thank you. Please state your name
25 and address for the record.

1 MR. LETHAM: Curban Letham, 1440 G Street,
2 Northwest, Washington, D.C. 20005.

3 MS. NICHOLS: Thank you.

4 MR. TEDESCO: Mr. Letham, where are you currently
5 employed?

6 MR. LETHAM: Area Pro.

7 MR. TEDESCO: And what is your title with Area
8 Pro?

9 MR. LETHAM: Founder and CEO.

10 MR. TEDESCO: And what are your job
11 responsibilities?

12 MR. LETHAM: Manage our, our staff as well client
13 management.

14 MR. TEDESCO: And Madam Examiner, we have Mr.
15 Letham's CV as Exhibit 36. Mr. Letham is not previously
16 qualified as an expert in market analysis. I'm happy to
17 voir dire him or Mr. Brown can voir dire him.

18 MS. NICHOLS: (Indiscernible) no, just go ahead
19 with your questions.

20 MR. TEDESCO: Okay. Thank you. Mr. Letham, how
21 long have you been engaged in market analysis?

22 MR. LETHAM: Ten years.

23 MR. TEDESCO: And can you describe your
24 professional educational background?

25 MR. LETHAM: I have eleven years of corporate

1 banking experience, and real estate development and finance
2 experience. I received my undergrad from Hampton University
3 in market and in management and my Master's Degree in real
4 estate finance and development from Georgetown.

5 MR. TEDESCO: And can you describe your
6 professional background?

7 MR. LETHAM: Professional background, I worked for
8 a real estate private equity company based in Silver Spring,
9 Maryland. We focused on acquiring housing, retail, self-
10 storage facilities throughout Maryland, D.C. and Virginia.
11 I've got 11 years banking experience. I've been running
12 Area Pro full-time since 2013.

13 MR. TEDESCO: Have you ever appeared on any
14 seminar panels or lectures or written any articles in the
15 field of market analysis?

16 MR. LETHAM: Yes. I spoke at the National Housing
17 and Rehabilitation Association annual conference in
18 February. I spoke in the Councils of Real Estate
19 executive's annual conference last year as well in Chicago,
20 before COVID and that's the last two seminars that I've done
21 recently.

22 MR. TEDESCO: And are you a member of any
23 professional societies or organizations in the field?

24 MR. LETHAM: About 10 organizations. I'm on the
25 board of DCBIA, I run several committees for them and

1 several boards nationally.

2 MR. TEDESCO: Madam Examiner, based upon that
3 testimony as well as Mr. Letham's CV, we would ask that he
4 be accepted as an expert in the field of market analysis.

5 MS. NICHOLS: Why do you need him to be an expert.

6 MR. TEDESCO: Well, he provided an analysis with
7 respect to the market for this particular development at
8 this particular location. We felt that it was necessary to
9 have his testimony in essence to support that market
10 analysis that was done, particularly in satisfaction of 27-
11 337(b) (4) (B) (i) which requires that the use will serve the
12 needs of the elderly families or physically handicapped. So
13 we wanted to make sure that his testimony was and his
14 opinions were accepted here today with respect to serving
15 the need of the community.

16 MS. NICHOLS: I don't think that that is what that
17 section is going to. I'm going to allow Mr. Letham to
18 testify but I'm not going to qualify him today.

19 MR. TEDESCO: Okay. Thank you. And again, I
20 don't think it's a need analysis per se, but we did
21 previously submit a report that Mr. Letham did in reference
22 to this application to show that there is actually, there is
23 a demand. So although I'm not conceding that the required
24 finding is a direct need, it is reasonably convenient and
25 there actually is a demand for it. So with that being said,

1 Mr. Letham, are you familiar with the application subject of
2 the hearing today?

3 MR. LETHAM: Yes.

4 MR. TEDESCO: Were you commissioned by the
5 application to perform certain services associated with the
6 property?

7 MR. LETHAM: We were commissioned to conduct the
8 market study for tax credit submission.

9 MR. TEDESCO: And did you do an actual market
10 study for a tax credit submission in this case?

11 MR. LETHAM: I did.

12 MR. TEDESCO: And Madam Examiner, that's
13 identified as Exhibit 25 in the record.

14 MS. NICHOLS: 25 is the original market study and
15 41 is the supplemental and both are accepted.

16 (Hearing Exhibit Nos. 25 and 41
17 previously marked for identification
18 were received into evidence.)

19 MR. TEDESCO: Thank you. Madam Examiner beat me
20 to the punch. You did a supplemental study in February of
21 2020, is that correct?

22 MR. LETHAM: Correct.

23 MR. TEDESCO: And did you conduct an investigation
24 into the primary market area to evaluate demand or
25 feasibility for the proposed development at this property?

1 MR. LETHAM: I did.

2 MR. TEDESCO: And did you do a demand and
3 absorption analysis for the proposed use at the property?

4 MR. LETHAM: I did.

5 MR. TEDESCO: And could you describe that analysis
6 and the conclusions reached?

7 MR. LETHAM: Sure. So the PMA, the primary market
8 area consensus about a 20 mile radius from the subject,
9 north being Landover Hills, south is Brandywine and to the
10 east, what do we have for PMA for the east, to the east
11 about an eight minute drive from the site and to the west
12 about an 11 minute drive from the site. That was derived
13 from interviews with property managers in the market as well
14 as interviews with local residents and realtors that, that
15 sell property within the immediate community.

16 MR. TEDESCO: And was there a secondary market
17 area analysis done?

18 MR. LETHAM: Yeah, so secondary market analysis we
19 expanded the outreach a bit to include parts of Bowie which
20 was not in the primary market area.

21 MR. TEDESCO: Did you look at certain factors in
22 determining your findings and conclusions with respect to
23 the market analysis for the tax credit application?

24 MR. LETHAM: We did. We looked at the occupancy
25 rate for comparables within the, the primary market area.

1 We looked at the lease, of how many units are being rented
2 on a monthly basis. We looked at the demographic
3 projections through 2024 and there, there, there will be
4 about, over 11,000 new households over the age of, of 60
5 moving into the market based off the demographic projects
6 from esry (phonetic sp.) so that speaks pretty well,
7 favorably for the subject property and the proposed plans
8 here.

9 MR. TEDESCO: Did you look at any other factors
10 with respect to proximity to healthcare, physicians,
11 community facilities, grocery stores, higher education,
12 things of that sort?

13 MR. LETHAM: Yeah, I think the most, the most
14 impactful is access to healthcare, given the scope here.
15 And so I, I believe within an eight minute drive you have
16 access to five grocery store, 12 urgent cares, I'm sorry
17 eight urgent cares, 12 healthcare facilities within a 25
18 minute drive and then two pharmacies are I believe within
19 less than two miles, CVS and Walgreen's. So you know if, if
20 you're going to a grocery store you can, you can get your
21 medication at the nearby Wal-Mart or the Safeway. If
22 you're, if you're not, you can easily if there's a shuttle
23 service or you have transportation get to the CVS or
24 Walgreen's. I think that, that speaks very well for the
25 project.

1 MR. TEDESCO: And the analysis concluded that this
2 particular, well, strike that. What was the conclusions of
3 the analyses that were done.

4 MR. LETHAM: I think there's limited supply in
5 this market for this target audience and we, we, we, we
6 support it. That was our final line of conclusion that
7 there, there hasn't been new, there are two projects in the
8 pipeline in the market, but one project will target
9 households or senior households with, with disabilities, and
10 HIV Aids, which is a different targeted audience than, than
11 what's proposed here. And then there is another senior
12 project but it's for higher income households. So I think
13 this has a good niche in the marketplace and it's good to
14 see more, more supply coming in to, to serve the population.

15 MR. TEDESCO: And have you done a recent analysis
16 in other projects in the market area recently?

17 MR. LETHAM: The two, the two that I just
18 mentioned were done or supported by my firm within the past
19 six months. So the HIV disability project we worked on,
20 that's in Clinton, Maryland and then a 46 unit project as
21 well, we worked on that and that's also Clinton, Maryland.

22 MR. TEDESCO: And based upon those recent
23 analyses, does anything in your analysis with reference to
24 this project Exhibits 25 and 41 change?

25 MR. LETHAM: Nothing negatively. You know, COVID

1 had a minor impact on, on this, this maybe a community I
2 think you know, when we did the initial study there were 12
3 vacant senior housing apartment units. Fast forward to last
4 month, there, there are 20, no 25 vacant housing units
5 available in the market right now. So that, that spans
6 from, you know, new development projects to properties that
7 were done in the 70's, right, so it's a different quality
8 there across the board. So I don't think, I still, I still
9 favor this development project.

10 MR. TEDESCO: Those are all the questions I have,
11 Madam Examiner.

12 MS. NICHOLS: Thank you. Mr. Brown?

13 MR. BROWN: Yes, good morning, Mr. Letham.

14 MR. LETHAM: Good morning, Mr. Brown.

15 MR. BROWN: Since we did not qualify you as an
16 expert in market analysis, you're testifying as a lay
17 person. And as I understand it you've testified with
18 regards to 27-337(d)(1) which requires the project will
19 serve the needs of the elderly families or physically
20 handicapped families. Your primary market area that you
21 identified, is that consistent or equivalent to the
22 neighborhood that were also identified by the staff?

23 MR. LETHAM: Yes.

24 MR. BROWN: Actually, shouldn't the answer be
25 (indiscernible) isn't your primary area larger than the

1 neighborhood?

2 MR. LETHAM: Oh, I'm sorry, I missed the first
3 part of that, I just said, I thought you said did I include
4 the primary market area. But it is larger than, than the
5 immediate area, yes.

6 MR. BROWN: Does your primary market area include
7 any parts of the District of Columbia?

8 MR. LETHAM: No, it does not.

9 MR. BROWN: And so your primary market area, I did
10 see it in the report earlier, it has a radius of what from
11 this property?

12 MR. LETHAM: About 30, a 30 minute drive and 25
13 miles from north to south.

14 MR. BROWN: 25 miles. And what is the percentage,
15 if you know, of disabled residents that are proposed to be
16 at this site?

17 MR. LETHAM: I, I don't have that answer at the
18 moment.

19 MR. BROWN: All right. But clearly 100 percent of
20 them will be elderly, at a minimum, that's correct?

21 MR. LETHAM: Correct, 62 plus.

22 MR. BROWN: All right. And you said you did the
23 market analysis to support the request by the applicant for
24 a tax credit, correct?

25 MR. LETHAM: Correct.

1 MR. BROWN: And who approved the tax credit? Is
2 it HUD or is it some other federal agency?

3 MR. LETHAM: The State of Maryland distributes the
4 equity funding.

5 MR. BROWN: All right. Have they approved your
6 study in relationship to tax credits?

7 MR. LETHAM: Have they approved the study, I
8 believe so.

9 MR. BROWN: Do we have that in this file?

10 MR. LETHAM: I, I don't have a receipt of that in
11 this file from my memory.

12 MR. BROWN: All right. We need to have a copy of
13 that, Mr. Tedesco. And so you submitted the study to the
14 State of Maryland and they then issued some type of document
15 that concurs with your study and says it's appropriate to
16 issue the requested tax credits, is that correct?

17 MR. LETHAM: Yes. I do have an e-mail which I can
18 send Mr. Tedesco after, after this call. Hopefully, that
19 would suffice.

20 MR. BROWN: All right. With regards to the market
21 analysis that you submitted into the record, I don't have a
22 problem with the document, don't want to be overly technical
23 given the conclusions and the opinions referenced therein,
24 but I guess I won't object to it. No other questions.
25 Thank you.

1 MS. NICHOLS: Mr. Tedesco?

2 MR. TEDESCO: No. Thank you, Mr. Brown. If Mr.
3 Letham could forward that to me I will submit it to staff as
4 soon as I receive it. My next witness, and we're down to
5 the wire I appreciate, for a very supportable
6 uncontroversial case, there's a lot of technical witnesses
7 that we needed for it, so I appreciate your indulgence. Our
8 next witness will be Mike Lenhart.

9 MS. NICHOLS: All right. I tell you what, before
10 I swear in Mr. Lenhart, let's take a 10-minute break. Is
11 that all right?

12 MR. TEDESCO: Absolutely. Thank you.

13 MS. NICHOLS: Thank you. Okay. You can pause the
14 recording.

15 AUTOMATED RECORDING: This conference is no longer
16 being recorded.

17 MS. NICHOLS: Okay.

18 (Off the record.)

19 (On the record.)

20 MS. NICHOLS: All right.

21 MR. LENHART: Yes, good morning.

22 MS. NICHOLS: Good morning. Right hand, please.

23 MR. LENHART: Yes.

24 MS. NICHOLS: Thank you. Do you solemnly swear or
25 affirm under the penalties of perjury in the matter now

1 pending to tell the truth, the whole truth and nothing but
2 the truth?

3 MR. LENHART: I do.

4 MS. NICHOLS: Thank you, Mr. Lenhart. Welcome
5 back, and you have previously been sworn in as an expert
6 witness in the field of transportation and you will continue
7 in that capacity today.

8 MR. LENHART: Thank you.

9 MS. NICHOLS: Thank you. And your CV is Exhibit
10 34 and it's accepted.

11 (Hearing Exhibit No. 34 previously
12 marked for identification was
13 received into evidence.)

14 MR. TEDESCO: Mr. Lenhart, could you please state
15 your address for the record? Did you do that
16 (indiscernible)?

17 MR. LENHART: Yes. It is --

18 MR. TEDESCO: That's not a trick question, Mr.
19 Lenhart.

20 MS. NICHOLS: Sorry.

21 MR. LENHART: Well --

22 MR. TEDESCO: That's an inside joke between the
23 Hearing Examiner and People's Zoning Council on another
24 case. Sorry, but yes.

25 MR. LENHART: Lenhart Traffic Consulting, 645

1 Baltimore Annapolis Boulevard, Suite 214, Severna Park,
2 Maryland 21146.

3 MR. TEDESCO: And you're familiar with the
4 application that's the subject of this hearing today?

5 MR. LENHART: Yes, I am.

6 MR. TEDESCO: And you were employed by the
7 application to perform certain services associated with the
8 subject property?

9 MR. LENHART: That's correct.

10 MR. TEDESCO: And did you make an inspection of
11 the property specifically regarding the transportation
12 network?

13 MR. LENHART: Yes, I did.

14 MR. TEDESCO: And you're familiar with the
15 transportation network in the vicinity of the property?

16 MR. LENHART: Yes.

17 MR. TEDESCO: And you're familiar with the
18 applicant's, excuse me, are you familiar with the
19 applicant's Site and Development Plans?

20 MR. LENHART: That's correct, I am.

21 MR. TEDESCO: And could you just summarize the
22 transportation network for the Examiner?

23 MR. LENHART: Yes. So the property has frontage
24 along two public streets, Schultz Road to the west and to
25 the north there's a ramp that runs between Schultz Road and

1 southbound Route 5. It's a right in right out onto to
2 southbound Route 5. It has frontage on that as well, but
3 the access to the property will be on Schultz Road. Schultz
4 Road and Spring Brook Lane provide a connectivity in the
5 area and those are both smaller county roadways not listed
6 in the Master Plan, but just small residential roadways.

7 MR. TEDESCO: And did you prepare a memorandum
8 associated with this application from a transportation
9 standpoint?

10 MR. LENHART: Yes, we did.

11 MR. TEDESCO: And you actually prepared two, is
12 that correct?

13 MR. LENHART: Yes, the first one was dated October
14 5, 2020.

15 MR. TEDESCO: Madam Examiner, that's Exhibit 9.

16 MS. NICHOLS: Thank you.

17 MR. TEDESCO: Exhibit 9, October 5th and then
18 Exhibit 31 is the January 15, 2021. Could you describe
19 Exhibit 9 and Exhibit 31, respectively?

20 MR. LENHART: Yes. Exhibit 9, the October 5, 2020
21 traffic statement included a traffic count in it from 2019.
22 The COVID pandemic required Park and Planning to have some
23 temporary COVID traffic count policies, so that first
24 exhibit was prepared based on the policies that were in
25 effect beginning April of 2020 through September of 2020,

1 which allowed the use of traffic counts that were older than
2 12 months at the time of application, and you could apply a
3 growth factor to those to bring them up to a current date.
4 Beginning September of 2020, Park and Planning established a
5 new temporary COVID traffic count policy which allowed the
6 use of new traffic counts and the application of a four
7 percent adjustment factor to account for the fact that
8 schools were operating virtually. And so the January 15,
9 2021 was updated to include new traffic counts at the study
10 intersection.

11 MR. TEDESCO: Did you make an investigation of the
12 traffic conditions and the counts in the area?

13 MR. LENHART: We did, yes. So the project
14 generates 12 morning and 14 evening p.m. peak hour trips.
15 It is slightly above de minimis, it does not require a full
16 traffic impact study. It simply requires, based on the
17 guidelines, traffic counts to be conducted at the nearest
18 intersection that would serve the majority of the site
19 trips, and that is Schultz Road at Spring Brook Lane. So we
20 conducted those traffic counts at that location, the
21 intersection is an unsignalized intersection. The
22 guidelines require a three tier analyses procedure to look
23 at unsignalized intersections, and that intersection passes
24 all three of the steps for an unsignalized analysis. It
25 only needs to pass one of those steps in order to be

1 adequate, but it passes again all three.

2 MR. TEDESCO: Did the Transportation Planning
3 Section of the Maryland National Capital Park and Planning
4 Commission review your memo and your counts?

5 MR. LENHART: Yes, they did.

6 MR. TEDESCO: And what were their conclusions?

7 MR. LENHART: They agreed with our findings and
8 they even, they noted in the Staff Report for the Special
9 Exception that the traffic impact for this site is only
10 barely, I'm quoting, only barely above the de minimis
11 grading and will not have an adverse impact on health,
12 safety or welfare of residents and workers in the area.

13 MR. TEDESCO: And I assume you agree with those
14 conclusions?

15 MR. LENHART: I do.

16 MR. TEDESCO: Just to conclude your testimony to
17 get it on the record, from the perspective of traffic
18 engineering and planning, will the granting of this
19 application be consistent with the standards required in the
20 Ordinance for the use in question?

21 MR. LENHART: Yes.

22 MR. TEDESCO: And from the perspective of traffic
23 engineering and planning, will the approval of the
24 application cause any adverse effect upon adjacent
25 properties or surrounding neighborhood?

1 MR. LENHART: No, it will not.

2 MR. TEDESCO: Will the approval of the application
3 have any detrimental effect on the health, safety of
4 pedestrian or motorists in the area?

5 MR. LENHART: No, it will not, based on my
6 testimony and the fact that this is barely above a de
7 minimis impact, it will not have any detrimental impact.

8 MR. TEDESCO: Is this subject property albeit not
9 subject to this application, but the subject property was
10 subject to a Preliminary Plan of Subdivision, correct?

11 MR. LENHART: Yes.

12 MR. TEDESCO: And was bike ped, BPIS required in
13 this case?

14 MR. LENHART: It was, yes, for the Preliminary
15 Plan.

16 MR. TEDESCO: And are there offsite bike
17 pedestrian improvements proposed or required?

18 MR. LENHART: Yes. We coordinated with staff and
19 looked at facilities in the area based upon the cost cap and
20 we identified pedestrian crosswalks and a crosswalk ramp
21 improvements that would be provided to the southwest of the
22 site along Schultz Road at the intersection of Weimer Court,
23 it's W-E-I-M-E-R Court, if I remember the spelling
24 correctly. Just to the site, again southwest of the site
25 out toward Old Branch Avenue about halfway or a little more

1 than halfway from the site to Old Branch.

2 MR. TEDESCO: And was there a trip cap placed upon
3 this development pursuant to the Preliminary Plan of
4 Subdivision?

5 MR. LENHART: Yes, it would have 12 a.m. and 14
6 p.m. trips.

7 MR. TEDESCO: I have no more questions, thank you.

8 MS. NICHOLS: Mr. Brown?

9 MR. BROWN: Good afternoon, Mr. Lenhart, how are
10 you?

11 MR. LENHART: Good afternoon, I'm good, thank you.

12 MR. BROWN: I guess since this has a de minimis
13 impact on traffic, I shouldn't have any questions, right?

14 MR. LENHART: You're entitled to questions.

15 MR. TEDESCO: Can counsel for the applicant advise
16 Mr. Lenhart not to answer that?

17 MR. BROWN: Thank you. True question.

18 MR. LENHART: I would clarify though, Mr. Brown,
19 it's not de minimis, it's slightly above de minimis. De
20 minimis is five peak hour trips and so this is 12 a.m., 14
21 p.m.

22 MR. BROWN: Right. I didn't see anywhere in this
23 record, I'm sure I (indiscernible) but what is the number of
24 units proposed for this development?

25 MR. LENHART: We have it as 90 units.

1 MR. BROWN: Thank you. Got you. Got you. All
2 right. No other questions, thanks.

3 MR. LENHART: Certainly.

4 MR. TEDESCO: Thank you, Mr. Brown. No further
5 questions.

6 MS. NICHOLS: Thank you, Mr. Lenhart.

7 MR. LENHART: Thank you.

8 MR. TEDESCO: Is Mr. Staiano here, or are we still
9 missing? Mike?

10 MR. STAIANO: Yes?

11 MR. TEDESCO: Madam Examiner, one question I'd
12 like to recall Mr. Staiano to answer please.

13 MS. NICHOLS: All right. Mr. Staiano, could you
14 please turn your video on and I remind you you continue
15 under oath.

16 MR. STAIANO: Yes, go ahead.

17 MR. TEDESCO: Mr. Staiano, during the break did
18 you have an opportunity to research the Komar citation that
19 Mr. Brown asked you about?

20 MR. STAIANO: Yes, I did.

21 MR. TEDESCO: And do you have that citation?

22 MR. STAIANO: Yes. The Komar regulation that
23 relates to noise, although as I said is not applicable to
24 this type of exposure is Section 26.02.03.02, it's entitled
25 Environmental Noise Standards.

1 MR. TEDESCO: And the exemptions, if I'm not
2 mistaken are subpart C?

3 MR. STAIANO: Let me see if I can find that.

4 MR. TEDESCO: I mean Madam Examiner and People's
5 Zoning Council, I think you can take notice, subpart I think
6 it's C3.

7 MR. BROWN: Yes, I don't have any problem, I'm
8 familiar, I have it. As long as it's in the file.

9 MR. TEDESCO: It is. I'm sorry, I just wanted to,
10 it's (c) (2) (C) I'm sorry (c) (2) (e) as in Edward, motor
11 vehicles on public streets are exempt. That's all I had, I
12 just wanted that to be in the record to make sure we can try
13 to close this record today. Thank you. No further
14 questions.

15 MS. NICHOLS: All right. Thank you, Mr. Staiano.

16 MR. STAIANO: You're welcome.

17 MR. TEDESCO: We would call Mr. Ferguson.

18 MS. NICHOLS: Mr. Ferguson, pleasure to see you.

19 Good --

20 MR. FERGUSON: Good morning, Madam Examiner.

21 MS. NICHOLS: Good morning. Do you solemnly swear
22 or affirm under the penalties of perjury in the matter now
23 pending to tell the truth, the whole truth and nothing but
24 the truth?

25 MR. FERGUSON: I do.

1 MS. NICHOLS: Thank you. Would you please state
2 your name and business address for the record?

3 MR. FERGUSON: My name is Mark G.L. Ferguson, my
4 business address is 9500 Medical Center Drive, Suite 480,
5 Largo, Maryland 20774.

6 MS. NICHOLS: And you have previously qualified as
7 an expert in the field of land planning and you are
8 continued in that qualification today.

9 MR. FERGUSON: Thank you, Madam Examiner.

10 MS. NICHOLS: Thank you.

11 MR. TEDESCO: Mr. Ferguson, are you familiar with
12 the special exception application that's before the Examiner
13 here today?

14 MR. FERGUSON: I am.

15 MR. TEDESCO: And I think it's been testified to
16 before, but what's your understanding of the application and
17 what's being requested?

18 MR. FERGUSON: It's for a proposed four story
19 building to accommodate elderly residents of 90 units of
20 which 72 would be one bedroom and 18 would be two bedroom
21 units. The associated parking, some exterior recreation
22 facilities.

23 MR. TEDESCO: I'm multitasking, I apologize. Did
24 you make a personal inspection of the subject property?

25 MR. FERGUSON: I did.

1 MR. TEDESCO: And did you prepare a land planning
2 report for this application?

3 MR. FERGUSON: Yes, I did.

4 MR. TEDESCO: Madam Examiner, that's been marked
5 as Exhibit 42, I believe. We would ask for that to be
6 accepted.

7 MS. NICHOLS: So accepted.

8 (Hearing Exhibit No. 42 previously
9 marked for identification was
10 received into evidence.)

11 MR. TEDESCO: In addition to any verbal testimony
12 that you provide here today, do you incorporate and adopt
13 that land planning report as your testimony?

14 MR. FERGUSON: Yes, I do.

15 MR. TEDESCO: And are you familiar with the
16 development history of the property?

17 MR. FERGUSON: I am.

18 MR. TEDESCO: Could you just briefly describe
19 that?

20 MR. FERGUSON: Well there isn't much. The
21 property was platted many, many years ago as a part of the
22 Charles C. Schultz subdivision and there was at one time a
23 house on it, approximately, I don't know 40 perhaps as much
24 as 40 years ago it disappeared. The subject property was
25 subsequently occupied by, or acquired, excuse me, by Prince

1 George's County. A portion of the property was actually
2 used for, of the property acquired by the county was used
3 for a storm water management facility associated with the
4 improvements of Branch Avenue when it was converted to a
5 freeway and then as Mr. Ervin testified some approximately
6 five years ago the property was declared surplus by the
7 county and purchased by one of the applicant's entities,
8 which I hope you don't ask me to specify.

9 MR. TEDESCO: Did the technical staff define the
10 boundaries of the defined neighborhood from the zoning
11 perspective in this case?

12 MR. FERGUSON: They did.

13 MR. TEDESCO: And do you agree with those
14 boundaries from the technical staff?

15 MR. FERGUSON: I do.

16 MR. TEDESCO: And what are those boundaries?

17 MR. FERGUSON: Well, on the north, Coventry Way,
18 on the east Branch Avenue itself, on the west Old Branch
19 Avenue and on the south Woodley Road and then then north
20 side of the Woodyard Crossing Shopping Center to the south.
21 So there's some vacant land and then the Woodyard Shopping
22 Center starts on the other side of I believe it's the
23 tributary of Pea Hill Branch.

24 MR. TEDESCO: Are you familiar with the various
25 planning documents and policies that are relevant to the

1 subject property?

2 MR. FERGUSON: I am.

3 MR. TEDESCO: And what are they? And could you
4 elaborate and what they recommend?

5 MR. FERGUSON: Well, certainly we've got the
6 county's 2014 General Plan, Plan 2035. We have the Central
7 Branch Avenue Corridor Revitalization Sector Plan and then
8 we have a number of Functional Master Plans. So the General
9 Plan places the property in its established community's
10 growth area and the generalized feature land use
11 recommendation is actually open space. Now that follows on
12 from the recommendation of the Central Branch Avenue Sector
13 Plan which had recommended open space land use, and it is of
14 course the General Plan's stated effect not to recommend the
15 future land use but rather directs you to those Master
16 Plans.

17 That Sector Plan, the Central Branch Avenue
18 Revitalization Sector Plan was prepared in 2013 and at that
19 time the subject property was in fact owned by Prince
20 George's County. So the land use recommendation just simply
21 reflected its public ownership.

22 What the Master Plan really does speak to in terms
23 of a larger land use policy is things like preservation of
24 an open space network including the one that's associated
25 with Pea Hill Branch, which forms the southwestern border of

1 the subject property and of course that is being preserved
2 by this application.

3 There are no real Functional Master Plan issues.
4 The Green Infrastructure Plan does recognize the Pea Hill
5 Branch floodplain which is being preserved to the fullest
6 extent practicable. There are no public facilities
7 recommended for the property. The Master Plan of
8 Transportation doesn't impact this property, with the
9 exception of the recommended trail along Schultz Road, the
10 construction of which is being provided by the Special
11 Exception Site Plan and the subdivision.

12 MR. TEDESCO: Based upon your familiarity with the
13 application and your land planning report and your testimony
14 and the testimony you heard here today, do you believe that
15 this application complies with the recommendations contained
16 in the Sector Plan?

17 MR. FERGUSON: I do, and I do go through those,
18 there are a number of recommendations in the plan that this
19 application does specifically speak to. I go over them on
20 pages really seven through 11 of my Staff Report and that
21 can really speak for itself. There's nothing that requires
22 a particular highlight.

23 MR. TEDESCO: Turning to 27-337, in your opinion
24 does the application comply with that section and could you
25 provide details with respect to each of those required

1 findings?

2 MR. FERGUSON: I did and I think what's worth
3 speaking to is really Mr. Brown's earlier question, I
4 believe that was to Mr. Casin and my interpretation of 27-
5 337 has three higher level subsections, A, B and C. C
6 really defines what an elderly family is and so the essence
7 of Mr. Brown's question spoke to the applicability of 27-
8 337(a) and when you look at 337(a) next to 337(b) you can
9 see that those are directly contrasting provisions. Namely,
10 the first is applicable to buildings which were formerly
11 used as a public school and then the second is to buildings
12 which are other than a public school. So because of that
13 opposing character of those two subsections, my
14 interpretation is that A does not apply and B does. That
15 having been said, the provisions of 27-334(b), I'm sorry,
16 I'm reading through it and looking for the provision. One
17 of the provisions of --

18 MR. TEDESCO: Four.

19 MR. FERGUSON: -- 27-337(b) (4) and I'm just not
20 seeing it as I'm reading through it. Yes, I'm sorry
21 (b) (4) (B) (2) refers you, I'm sorry, let me try again, 27-
22 334(b) (4) (A) refers you back to 27-337(a) (4) and in fact
23 actually one, two and three as well. So A doesn't
24 immediately apply but you're directed back to all of those
25 provisions by 27-337(b) (4) (A). And I'm sorry I stumbled on

1 that.

2 MR. TEDESCO: And I just want the record --

3 MR. FERGUSON: Reading is harder than it used to
4 be.

5 MR. TEDESCO: I believe you at one point you said
6 27-334, I think you meant 337.

7 MR. FERGUSON: 337 --

8 MR. TEDESCO: But there was a lot of B's and a lot
9 of 4's in there, so I understand.

10 MR. FERGUSON: Yes. No, 337(b)(4) and then
11 specifically (b)(4)(A) takes you back to reapply the
12 provisions of 27-337(a) even though the contrasting
13 structure of A and B send you to B rather than to A at that
14 first level.

15 MR. TEDESCO: Let me ask you this, did your land
16 planning study or report analyze the requirements of A1, 2,
17 3, and 4?

18 MR. FERGUSON: It did.

19 MR. TEDESCO: And you would submit on that
20 testimony, I assume?

21 MR. FERGUSON: I do.

22 MR. TEDESCO: Just generally speaking and it's in
23 your study or your plan, are the other requirements of
24 subsection B, 27-337(b)(4) met in your opinion?

25 MR. FERGUSON: B4, they are and again, I do go

1 through that in my report.

2 MR. TEDESCO: Regarding subsection (b) (4) (B) (i)
3 will serve the needs of the elderly families. From a land
4 planning perspective, how did you analyze that?

5 MR. FERGUSON: Well the General Plan actually does
6 speak to that. So and I refer to this in my report, but
7 I'll go to it right now. So policy 5 in the housing and
8 neighborhoods element of the General Plan is increase the
9 supply of housing types that are suitable for and attractive
10 to the county's vulnerable, I'm sorry, growing vulnerable
11 populations. These include the elderly, the homeless, and
12 residents with special needs. And that's on page 190 of the
13 General Plan.

14 And then a number of those strategies specifically
15 speak to the needs of the elderly populations including
16 elderly accessible housing and elderly affordable housing.

17 MR. TEDESCO: From that perspective, in your
18 opinion, is 27-337(b) (4) (B) (i) met?

19 MR. FERGUSON: Well, in addressing the needs
20 identified in the General Plan, it is. It does that.

21 MR. TEDESCO: Does the application, are you
22 familiar with the Military Installation Overlay Zone?

23 MR. FERGUSON: I am.

24 MR. TEDESCO: Is the property within it?

25 MR. FERGUSON: It is within the height limits of

1 the M-I-O-Z, not the safety or the noise limits.

2 MR. TEDESCO: And what impact or effect does that
3 have, if any?

4 MR. FERGUSON: So there is a, I would contend an
5 error in the formula that's provided in the Zoning Ordinance
6 for properties that are under conical surface E, as the
7 subject property is. So in my report I do two analyses of
8 the highest permissible structure. One in accordance with
9 the letter of the law, the other in terms of the intent of
10 the law as can be discerned by the very specific definitions
11 of each of those surfaces that are also in the ordinance.
12 But in either case, you arrive by the strict letter of the
13 Zoning Ordinance that a maximum permissible structure height
14 of 520 feet, we are obviously amply below that, at just over
15 40 feet. But if the ordinance were written to conform to
16 its own definitions, the maximum permissible structure
17 height would be lower. It would be only 268 feet, but even
18 at that lower and I believe correct height, we're still just
19 amply, amply below that restriction.

20 MR. TEDESCO: And your land planning report also
21 go through the required findings of 27-317, correct?

22 MR. FERGUSON: It does.

23 MR. TEDESCO: And you adopt those here today?

24 MR. FERGUSON: I do.

25 MR. TEDESCO: And did your analysis, written

1 testimony excuse me, did your written testimony also go
2 through the purposes of the Zoning Ordinance as well as the
3 R-80 Zone?

4 MR. FERGUSON: It does.

5 MR. TEDESCO: And from the perspective of meeting
6 the purposes of both, does this application do that in your
7 opinion?

8 MR. FERGUSON: It does in my opinion and I go
9 through that there's nothing really to highlight there. The
10 principle thing I guess to draw from a planning perspective
11 of the subject property is that you know we talked about the
12 boundaries of the neighborhood early. We didn't really talk
13 about the character of the neighborhood and I think that's
14 actually the most important thing from a planning
15 perspective. This subject property actually sits at a
16 transition point in its surrounding neighborhoods. The
17 character of the neighborhood to the west and southwest is
18 absolutely single family detached residential dwellings.
19 Once you get east of the property and northeast and
20 particularly along the extension of Schultz Road as it goes
21 and winds its way north back to Coventry Way, the character
22 really changes to service commercial, even light industrial.
23 And so this property really sits at the transition in
24 between those two characters of the larger neighborhood,
25 which makes it a particularly appropriate use from a

1 planning perspective. So across Spring Brook Lane to the
2 northeast, right now it's a small office building occupied
3 by a real estate office. Those of us with some history in
4 the county probably remember it more clearly as the old
5 Ethan Allen showroom along Branch Avenue, and you know this
6 property really acts as a very good transition in between
7 that commercial character and the single family detached
8 residential character to the west and southwest.

9 MR. TEDESCO: I have no further questions.

10 MS. NICHOLS: Mr. Brown?

11 MR. BROWN: I will be extremely quick. Pepco just
12 notified me they're going to turn off the electricity on
13 this block for 15 minutes. They gave me 15 minutes before
14 they do it. So my very quick question of Mark --

15 MR. FERGUSON: Yes, sir?

16 MR. BROWN: -- would be to 27-337(a), I think you
17 answered that. But in looking at the Staff Report on page
18 13 and 14, 27-337(e) (4) (A) references requirements of
19 paragraphs 1, 2, 3, 4 of subsection A.

20 MR. FERGUSON: Yes, sir.

21 MR. BROWN: This entire ordinance with regard to
22 337 is an article, but I don't see 27-337 1, 2, 3, 4 of
23 subsection A. Did they mean subsection B?

24 MR. FERGUSON: No, I think what my interpretation
25 is, is there were A 1, 2, 3, 4 of A are that number one,

1 Site Plan shall show the density, type and number of
2 dwelling units proposed. So that provision isn't within the
3 body of B, but (b) (4) (A) points you back and says this is
4 what governs the development regulations is the Site Plan.
5 And that provision is actually under 337(a) (1) which you're
6 directed back to by (b) (4) (A). So the second is that the
7 property is suitable and of sufficient size. The third is
8 that recreational and social amenities may be provided as
9 shown on the Site Plan, and in this case that's both the
10 interior and the exterior patio. And then finally, that the
11 height, lot coverage, density, frontage yard, green area
12 requirements that are specified in the zone don't apply here
13 but rather you use those approved under the special
14 exception. So those --

15 MR. BROWN: So the ordinance --

16 MR. FERGUSON: -- (indiscernible) unartful is a
17 really apartment description.

18 MR. BROWN: All right. I don't have any other
19 questions, thank you.

20 MS. NICHOLS: All right. And I just had one,
21 Mark. You were in agreement with all of the conditions of
22 staff with the exception of 1B and N which they complied
23 with, is that correct?

24 MR. FERGUSON: It is, I'm just double checking to
25 be sure. I certainly I'm in agreement with those conditions

1 and I do believe that all of 1A through N with the exception
2 of B and M are still outstanding on the last plan that I
3 saw. So yes, I agree with you.

4 MS. NICHOLS: Okay. And you agree to 2, 3, 4, 5
5 and 6?

6 MR. FERGUSON: I believe that those are
7 appropriate conditions, yes.

8 MS. NICHOLS: All right. All right. Okay. I
9 have no further questions. Thank you very much. Mr.
10 Tedesco?

11 MR. TEDESCO: Thank you, no further questions.
12 And before we lose Mr. Brown, I just want to acknowledge I
13 think Ms. Mitchell sent her, she couldn't get the letter to
14 scan so she just cut and pasted it in an e-mail format. I
15 think it was e-mailed directly to the ZHE general e-mail and
16 that was just forwarded to both myself and Mr. Brown as well
17 as to Susie. I will forward that to you, Madam Examiner, as
18 well as to Fatima so that it gets into this record. I think
19 that would be Exhibit 43.

20 MS. NICHOLS: Okay. Yes, that will be Exhibit 43.

21 (Hearing Exhibit No. 43 was
22 marked for identification.)

23 MS. NICHOLS: And on the side, we have received
24 your Exhibit 44, which is the tax credit letter.

25 (Hearing Exhibit No. 44 was

1 MR. TEDESCO: I expect that I will be able to
2 submit that to you if not today, at least no later than
3 tomorrow.

4 MS. NICHOLS: Okay.

5 MR. TEDESCO: So we would ask that the record, I
6 guess be held open until that's submitted and then
7 immediately closed. And with that, we would submit and
8 respectfully request the approval of this special exception
9 based upon the substantial evidence that's been provided.

10 MS. NICHOLS: All right. Thank you very much.
11 The hearing in this matter will deemed to have been
12 concluded. I'm going to leave the record open for the
13 receipt of the disclosure of business affidavit of
14 Paralogics (phonetic sp.) and upon receipt of that the
15 record will close in this matter and a decision will be
16 forthcoming. And I thank everybody for participating.

17 UNIDENTIFIED FEMALE PERSON: Thank you very much.

18 MR. TEDESCO: Thank you. Have a great day.

19 MS. NICHOLS: Thank you, you too.

20 UNIDENTIFIED MALE PERSON: Thank you.

21 AUTOMATED RECORDING: This conference is no longer
22 being recorded.

23 (Whereupon, the hearing was concluded.)
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Office of the Zoning Hearing Examiner in the matter of:

8320 SCHULTZ ROAD SENIOR HOUSING

Case No. SE-4830

By:



Diane Wilson, Transcriber